From: Gilmour J (Jim)
Sent: 14 June 2011 15:47
To: Cabinet Secretary for Parliamentary Business and Govt Strategy; Mochrie Z (Zoe); Cabinet Secretary For Finance, Employment and Sustainable Growth
Cc: Minister for Parliamentary Business and Chief Whip [redacted]; DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Cackette PH (Paul); Cairns A (Anne); Lindsay R (Ross); Pringle K (Kevin); Nicolson S (Stuart) Special Adviser; Mochrie Z (Zoe); Davidson IS (Ian) (PSDD); Owenson G (Graham)
Subject: RE: FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]

Ministers will want to be aware of the attached letter to First Minister from Michael McMahon. [redacted]

Jim Gilmour
Local Government - Local Taxation
Scottish Government, 3-J (North),
Victoria Quay,
Edinburgh
EH6 6QQ
Tel: 0131 244 7159

S20111006063.PDF
(65 KB)

From: Glass G (Gill) **On Behalf Of** Cabinet Secretary for Parliamentary Business and Govt Strategy
Sent: 14 June 2011 15:31
To: Mochrie Z (Zoe); Cabinet Secretary for Parliamentary Business and Govt Strategy; Cabinet Secretary For Finance, Employment and Sustainable Growth
Cc: Minister for Parliamentary Business and Chief Whip [redacted]; DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Cackette PH (Paul); Cairns A (Anne); Gilmour J (Jim); Lindsay R (Ross); Pringle K (Kevin); Nicolson S (Stuart) Special Adviser
Subject: RE: FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]

Zoe

Subject to the views of Mr Swinney Mr Crawford has indicated he is content with the recommendation that Scottish Ministers should proceed no further with the appeal.

The Cabinet Secretary has asked Special Advisers to consider for handling purposes. I will forward on the original submission to Kevin and Stuart.

Gill

PS/Cabinet Secretary for Parliamentary Business and Government Strategy
0131 348 5593
07795222335

Please see the Ministerial Preferences **which may be of assistance to you.**
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note of a Ministerial meeting, must be filed appropriately by the primary recipient. Private Offices do not keep official records of such e-mails or attachments.

From: Mochrie Z (Zoe)
Sent: 13 June 2011 15:18
To: Cabinet Secretary for Parliamentary Business and Govt Strategy; Cabinet Secretary For Finance, Employment and Sustainable Growth
Cc: Minister for Parliamentary Business and Chief Whip; [redacted]; DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Cackette PH (Paul); Cairns A (Anne); Gilmour J (Jim); Lindsay R (Ross)
Subject: FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]

<< File: FOI 10 00512 - Simon Johnson - Update to Cab Secs [redacted] - 9 June 2011.doc >>
Gill,

Please find attached an update on the Simon Johnson case as requested.
[redacted]

Happy to discuss

Zoe

Zoe Mochrie
Freedom of Information Unit
Room GH-98
Victoria Quay
Edinburgh
EH6 6QQ

T: 0131 244 4605

From: Cackette PH (Paul)
Sent: 23 March 2011 17:02
To: [redacted]
Cc: Minister for Parliamentary Business; Cabinet Secretary for Finance and Sustainable Growth; First Minister; [redacted] Permanent Secretary; DG Governance & Communities; Beattie C (Caroline); Bruce S (Stephen); Troup C (Colin); Sinclair MA (Murray); Mochrie Z (Zoe); Lavelle B (Brian); Ferguson SE (Shirley); Trotter N (Neil); Berry MA (Michael)(Communications); Lindsay R (Ross); Gethins S (Stephen); Owenson G (Graham); Davidson IS (Ian) (PSDD); Davidson S (Sarah); Jays T (Tim); Wilson F (Fiona) (Communications); Communications Wealthier & Fairer
Subject: RE: URGENT ; SIMON JOHNSTON FOI CASE

Johnston FoI
Appeal as lodged....

David,

Further to Murray's e-mail below and the later confirmation of agreement to lodge an Appeal on behalf of the Scottish Ministers, I can confirm that this has now been done.

The Appeal as lodged is enclosed.

This Appeal is being intimated to the Commissioner and Mr Johnson, as persons having an interest in the Appeal.

Paul

From: Sinclair MA (Murray)
Sent: 23 March 2011 10:08
To: [redacted]
Cc: Minister for Parliamentary Business; Cabinet Secretary for Finance and Sustainable Growth; First Minister; [redacted] Permanent Secretary; DG Governance & Communities; Owenson GA (Geoff); Cackette PH (Paul); Beattie C (Caroline); Bruce S (Stephen); Troup C (Colin)
Subject: URGENT ; SIMON JOHNSTON FOI CASE

[redacted]

cc : As above.

Purpose

[redacted]

Timing

[redacted]

Discussion

[redacted]

Conclusion and Recommendation

[redacted]

Murray Sinclair

Scottish Government Legal Directorate

<< File: FOI LIT.docx >>

From: Lindsay R (Ross)
Sent: 23 March 2011 13:17
To: Communications Wealthier & Fairer; Trotter N (Neil)
Cc: Communications Safer & Stronger; Davidson IS (Ian) (PSDD); Owenson G (Graham); Mochrie Z (Zoe); Bruce S (Stephen); Sinclair MA (Murray); Cackette PH (Paul); Beattie C (Caroline)
Subject: FOI - Simon Johnson case - appeal against commissioner's decision

Neil

Cc: Comms Safer & Stronger for info

I spoke to Stewart earlier to indicate Ministers will lodge an appeal before 4pm today against the Commissioner's decision in this case.

This may attract some interest after this point and I attach some reactive lines (drafted with FOI colleagues) for you to consider. Grateful for comments or redrafts before clearance is sought from SpAds and Ministers (both Mr Swinney and Mr Crawford given his portfolio interest).



foi - simon johnson - commissi...

Happy to discuss

Ross Lindsay
Local Government Division: Council Tax Reform
0131 244 7003

From: Bruce S (Stephen)
Sent: 10 February 2011 16:25
To: Richards M (Mark)
Cc: Walker G (Greig) (Legal); Mochrie Z (Zoe); MacDonald E (Elspeth)
Subject: SIC Decision 025/2011 - Simon Johnson
Importance: High

Mark

We have just received Decision 025/2011 from the Scottish Information Commissioner which relates to a FOI request by Simon Johnson of the Sunday Telegraph for information about local income tax revenue projections [redacted]

The Decision is attached.



Decision 025-2011.doc

Summary of Decision
Despite our arguments to the contrary, the Commissioner found that a submission of 16 January 2009 to Mr Swinney (identified in the Decision as document B15) is within the scope of the request, except for paragraphs 8 and 9 (and the associated headings) and the second bullet point in paragraph 10. He agreed that the section 29(1)(a) exemption (formulation or development of government policy) applied to the report prepared by the OCEA containing the local income tax revenue projections (referred to in the Decision as the OCEA report) and to document B15. Copies of both documents are attached.



LIT- Revised Revenue Paper Jan..



LIT - submission of 16 January...

[redacted]

Issues

[redacted]

[redacted]

Timescales
We are required to release the information by 28 March 2011 and any appeal would have to be lodged by 23 March. [redacted] **it would be helpful if you could respond by 23 February**.

Thanks

Stephen

FOI Unit
Ext 45537

From: Glass G (Gill) **On Behalf Of** Minister for Parliamentary Business
Sent: 09 March 2011 08:22
To: Bruce S (Stephen); Cabinet Secretary for Finance and Sustainable Growth
Cc: [redacted] Permanent Secretary; DG Governance & Communities; Davidson S (Sarah); Owenson G (Graham); Davidson IS (Ian) (PSDD); Moore JC (Jonathan); Lindsay R (Ross); Gillespie G (Gary); Beattie C (Caroline); Richards M (Mark); Watson DB (Dave) (ISIS); Mochrie Z (Zoe); Communications First Minister; Communications Corporate; Cooper S (Stewart); Gethins S (Stephen); Pringle K (Kevin); McAllister C (Colin); McLeish W (Will); Nicolson S (Stuart) Special Adviser
Subject: RE: Scottish Information Commissioner Decision 025/2011 - Simon Johnson - local income tax
Importance: High

Stephen

In advance of this afternoon's meeting [redacted]

Thanks
Gill

PS/Minister for Parliamentary Business
0131 348 5593
07795222335

Please see the Ministerial Preferences **which may be of assistance to you.**
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From: Glass G (Gill) **On Behalf Of** Minister for Parliamentary Business
Sent: 08 March 2011 10:29
To: Bruce S (Stephen); Cabinet Secretary for Finance and Sustainable Growth; Minister for Parliamentary Business
Cc: [redacted] Permanent Secretary; DG Governance & Communities; Davidson S (Sarah); Owenson G (Graham); Davidson IS (Ian) (PSDD); Moore JC (Jonathan); Lindsay R (Ross); Gillespie G (Gary); Beattie C (Caroline); Richards M (Mark); Watson DB (Dave) (ISIS); Mochrie Z (Zoe); Communications First Minister; Communications Corporate; Cooper S (Stewart); Gethins S (Stephen); Pringle K (Kevin); McAllister C (Colin); McLeish W (Will); Nicolson S (Stuart) Special Adviser
Subject: RE: Scottish Information Commissioner Decision 025/2011 - Simon Johnson - local income tax

Stephen

Thank you for this – Mr Crawford has agreed a meeting should be set up and Scott will be in touch to make the necessary arrangements

Gill

PS/Minister for Parliamentary Business
0131 348 5593
07795222335

Please see the Ministerial Preferences **which may be of assistance to you.**
All e-mails and attachments sent by a Ministerial Private Office to another official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the primary recipient. Private Offices do not keep official records of such e-mails or attachments.

From: Bruce S (Stephen)
Sent: 04 March 2011 15:27
To: Cabinet Secretary for Finance and Sustainable Growth; Minister for Parliamentary Business
Cc: [redacted] Permanent Secretary; DG Governance & Communities; Davidson S (Sarah); Owenson G (Graham); Davidson IS (Ian) (PSDD); Moore JC (Jonathan); Lindsay R (Ross); Gillespie G (Gary); Beattie C (Caroline); Richards M (Mark); Watson DB (Dave) (ISIS); Mochrie Z (Zoe); Communications First Minister; Communications Corporate; Cooper S (Stewart); Gethins S (Stephen); Pringle K (Kevin); McAllister C (Colin); McLeish W (Will); Nicolson S (Stuart) Special Adviser
Subject: Scottish Information Commissioner Decision 025/2011 - Simon Johnson - local income tax
Importance: High

Cabinet Secretary for Finance and Sustainable Growth
Minister for Parliamentary Business

I enclose a final submission [redacted]

Stephen Bruce

FOI Unit
Ext 45537

<< File: Decision 025_2011 - FOI_09_00512 - Simon Johnson - final submission to Ministers.doc >> << Message: Scottish Information Commissioner Decision 025/2011 - Simon Johnson - local income tax >>

From: Bruce S (Stephen)
Sent: 10 March 2011 15:25
To: Minister for Parliamentary Business; Cabinet Secretary for Finance and Sustainable Growth
Cc: [redacted] Permanent Secretary; DG Governance & Communities; Davidson S (Sarah); Owenson G (Graham); Davidson IS (Ian) (PSDD); Moore JC (Jonathan); Lindsay R (Ross); Gillespie G (Gary); Beattie C (Caroline); Richards M (Mark); Watson DB (Dave) (ISIS); Mochrie Z (Zoe); Communications First Minister; Communications Corporate; Cooper S (Stewart); Gethins S (Stephen); Pringle K (Kevin); McAllister C (Colin); McLeish W (Will); Nicolson S (Stuart) Special Adviser
Subject: RE: Scottish Information Commissioner Decision 025/2011 - Simon Johnson - local income tax
Importance: High

Gill, Laura

[redacted]

Could you confirm that Mr Swinney and Mr Crawford are content to proceed in this way? As time is short, [redacted] need the Ministers' agreement by tomorrow. To save time, perhaps you could reply directly [redacted].

Thanks

Stephen

FOI Unit
Ext 45537

Freedom of
nformation Simon J.

From: Bruce S (Stephen)
Sent: 10 March 2011 09:35
To: Minister for Parliamentary Business; Cabinet Secretary for Finance and Sustainable Growth
Cc: [redacted] Permanent Secretary; DG Governance & Communities; Davidson S (Sarah); Owenson G (Graham); Davidson IS (Ian) (PSDD); Moore JC (Jonathan); Lindsay R (Ross); Gillespie G (Gary); Beattie C (Caroline); Richards M (Mark); Watson DB (Dave) (ISIS); Mochrie Z (Zoe); Communications First Minister; Communications Corporate; Cooper S (Stewart); Gethins S (Stephen); Pringle K (Kevin); McAllister C (Colin); McLeish W (Will); Nicolson S (Stuart) Special Adviser
Subject: RE: Scottish Information Commissioner Decision 025/2011 - Simon Johnson - local income tax
Importance: High

Gill

Following last night's meeting [redacted]

[redacted]

[redacted]

Stephen

FOI Unit
Ext 45537

From: Bruce S (Stephen)
Sent: 09 March 2011 12:20
To: Minister for Parliamentary Business; Cabinet Secretary for Finance and Sustainable Growth
Cc: [redacted] Permanent Secretary; DG Governance & Communities; Davidson S (Sarah); Owenson G (Graham); Davidson IS (Ian) (PSDD); Moore JC (Jonathan); Lindsay R (Ross); Gillespie G (Gary); Beattie C (Caroline); Richards M (Mark); Watson DB (Dave) (ISIS); Mochrie Z (Zoe); Communications First Minister; Communications Corporate; Cooper S (Stewart); Gethins S (Stephen); Pringle K (Kevin); McAllister C (Colin); McLeish W (Will); Nicolson S (Stuart) Special Adviser
Subject: RE: Scottish Information Commissioner Decision 025/2011 - Simon Johnson - local income tax
Importance: High

Gill

Further to my previous e-mail, [redacted] – copy attached.

Stephen

FOI Unit
Ext 45537

<< Message: FW: Scottish Information Commissioner Decision 025/2011 - Simon Johnson - local income tax >>

From: Bruce S (Stephen)
Sent: 09 March 2011 09:31
To: Minister for Parliamentary Business; Cabinet Secretary for Finance and Sustainable Growth
Cc: [redacted] Permanent Secretary; DG Governance & Communities; Davidson S (Sarah);

Owenson G (Graham); Davidson IS (Ian) (PSDD); Moore JC (Jonathan); Lindsay R (Ross); Gillespie G (Gary); Beattie C (Caroline); Richards M (Mark); Watson DB (Dave) (ISIS); Mochrie Z (Zoe); Communications First Minister; Communications Corporate; Cooper S (Stewart); Gethins S (Stephen); Pringle K (Kevin); McAllister C (Colin); McLeish W (Will); Nicolson S (Stuart) Special Adviser
Subject: RE: Scottish Information Commissioner Decision 025/2011 - Simon Johnson - local income tax
Importance: High

Gill

[redacted] see attached.

Stephen

FOI Unit
Ext 45537

<< Message: RE: SIC Decision 025/2011 - Simon Johnson >>

From: Glass G (Gill) **On Behalf Of** Minister for Parliamentary Business
Sent: 10 March 2011 18:04
To: Beattie C (Caroline); Bruce S (Stephen); Minister for Parliamentary Business; Cabinet Secretary for Finance and Sustainable Growth
Cc: [redacted] Permanent Secretary; DG Governance & Communities; Davidson S (Sarah); Owenson G (Graham); Davidson IS (Ian) (PSDD); Moore JC (Jonathan); Lindsay R (Ross); Gillespie G (Gary); Beattie C (Caroline); Richards M (Mark); Watson DB (Dave) (ISIS); Mochrie Z (Zoe); Communications First Minister; Communications Corporate; Cooper S (Stewart); Gethins S (Stephen); Pringle K (Kevin); McAllister C (Colin); McLeish W (Will); Nicolson S (Stuart) Special Adviser
Subject: RE: Scottish Information Commissioner Decision 025/2011 - Simon Johnson - local income tax

Stephen/Caroline

Thank you for this. Subject to the views of Mr Swinney, Mr Crawford is content to proceed as suggested.

Gill

PS/Minister for Parliamentary Business
0131 348 5593
07795222335

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From: Boylan P (Paul) **On Behalf Of** Cabinet Secretary for Finance and Sustainable Growth
Sent: 10 March 2011 18:17
To: Minister for Parliamentary Business; Beattie C (Caroline); Bruce S (Stephen); Cabinet Secretary for Finance and Sustainable Growth
Cc: [redacted] Permanent Secretary; DG Governance & Communities; Davidson S (Sarah); Owenson G (Graham); Davidson IS (Ian) (PSDD); Moore JC (Jonathan); Lindsay R (Ross); Gillespie G (Gary); Beattie C (Caroline); Richards M (Mark); Watson DB (Dave) (ISIS); Mochrie Z (Zoe); Communications First Minister; Communications Corporate; Cooper S (Stewart); Gethins S (Stephen); Pringle K (Kevin); McAllister C (Colin); McLeish W (Will); Nicolson S (Stuart) Special Adviser
Subject: RE: Scottish Information Commissioner Decision 025/2011 - Simon Johnson - local income tax

Caroline,

Mr Swinney is content to proceed [redacted]

Regards

Paul

Paul Boylan
DPS/Cabinet Secretary for Finance & Sustainable Growth
Scottish Government
Tel: 01312445202
Mob: 07717422442
E-mail: paul.boylan@scotland.gsi.gov.uk

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Mr Swinney takes a Ministerial Box Monday to Thursday which closes at 16:00. Mr Swinney does not take a box on a Friday.

Click here to see John Swinney's Ministerial Preferences

From: Beattie C (Caroline)
Sent: 11 March 2011 10:37
To: Bruce S (Stephen)
Subject: RE: Scottish Information Commissioner Decision 025/2011 - Simon Johnson - local income tax

Thanks Stephen, nothing else needed and I am just about to send it. I will copy you in.

[redacted]



RE: Scottish nformation Commi..

Caroline Beattie
Deputy Director
Commercial and Business Services Division
Scottish Government Legal Directorate
Room G-C 76 Victoria Quay Edinburgh

telephone 0131 244 0535
blackberry 0782 4625057

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-Information for Scottish Government staff: http://intranet/LegalDirectorate

-Information for everyone. SGLD and the Government Legal Service for Scotland: http://www.scotland.gov.uk/About/Directorates/Services-Groups/LPS/glss

From: Bruce S (Stephen)
Sent: 11 March 2011 10:16
To: Beattie C (Caroline)
Subject: RE: Scottish Information Commissioner Decision 025/2011 - Simon Johnson - local income tax

Thanks, Caroline. [redacted] Do you need anything more from the FOI Unit before you send the submission?

Stephen

From: Beattie C (Caroline)
Sent: 10 March 2011 16:45
To: Bruce S (Stephen)
Subject: FW: Scottish Information Commissioner Decision 025/2011 - Simon Johnson - local income tax

Stephen,

I have spoken to Stuart about this. [redacted]

From: Nicolson S (Stuart) Special Adviser
Sent: 10 March 2011 15:43
To: Bruce S (Stephen); Minister for Parliamentary Business; Cabinet Secretary for Finance and Sustainable Growth
Cc: [redacted] Permanent Secretary; DG Governance & Communities; Davidson S (Sarah); Owenson G (Graham); Davidson IS (Ian) (PSDD); Moore JC (Jonathan); Lindsay R (Ross); Gillespie G (Gary); Beattie C (Caroline); Richards M (Mark); Watson DB (Dave) (ISIS); Mochrie Z (Zoe); Communications First Minister; Communications Corporate; Cooper S (Stewart); Gethins S (Stephen); Pringle K (Kevin); McAllister C (Colin); McLeish W (Will)
Subject: RE: Scottish Information Commissioner Decision 025/2011 - Simon Johnson - local income tax

Stephen,

I have just spoken to Mr Crawford about this.

[redacted]

Thanks

Stuart

From: Owenson G (Graham)
Sent: 16 March 2011 14:07
To: First Minister; Cabinet Secretary for Finance and Sustainable Growth; Minister for Parliamentary Business
Cc: Permanent Secretary; DG Governance & Communities; Davidson S (Sarah); Davidson IS (Ian) (PSDD); Beattie C (Caroline); Bruce S (Stephen); Cackette PH (Paul); Sinclair MA (Murray); Lindsay R (Ross); Communications Wealthier & Fairer; Pringle K (Kevin); Gethins S (Stephen)
Subject: RE: FOI Request Simon Johnson

PPS/FM
PS/Cabinet Secretary for Finance and Sustainable Growth
PS/Minister for Parliamentary Business

Perm Sec has asked that I share the attached note providing some background and advice on the legal issues surrounding the FOI case from Simon Johnson on Local Income Tax. Karen will wish to note that I understand that Perm Sec provided an update in his earlier one to one meeting with FM.

[redacted]

Graham

Graham Owenson
Head of Local Government Finance
Scottish Government
0131 24 47002
graham.owenson@scotland.gsi.gov.uk
Visit the LGF website at: http://www.scotland.gov.uk/Topics/Government/local-government/17999/11175

From: Owenson G (Graham)
Sent: 15 March 2011 16:40
To: Permanent Secretary
Cc: DG Governance & Communities; Davidson S (Sarah); Davidson IS (Ian) (PSDD); Beattie C (Caroline); Cackette PH (Paul); Sinclair MA (Murray); Lindsay R (Ross); Gilmour J (Jim)
Subject: RE: FOI Request Simon Johnson
Importance: High

Katie

Following our meeting with Perm Sec earlier today, I attach a short summary note on the background and the latest legal issues surrounding this FOI case.

Background

- The commitment to replace the council tax with a new local income tax (LIT) based on the ability to pay was a SNP manifest pledge in the 2007 Scottish elections.

- The Scottish Government's consultation on the future of local taxation, including local income tax, ended in July 2008.

- The Scottish Government provided revenue projections in March 2008 and these were made available publicly in SPICe (Bib number 45130). These projections confirmed that there was a funding gap of around £280m (inclusive of CTB income) between what would be raised under council tax and LIT.

- However, later analysis provided by OCEA in January 2009 following the UK PBR in November 2008 (and the subject of the FOI request from Simon Johnson and not yet disclosed) suggests the gap could be £380m which reflects the volatility of local income tax forecasts in an economic recession and the sensitivity of fiscal changes by the UK Government.

- [redacted] in February 2009, in the absence of Parliamentary support (and also taking into account the latest forecast of the costs involved), to postpone introduction of LIT until after the 2011 Scottish elections. This change in approach, which was announced in February 2009, followed two motions in Parliament rejecting the policy. The Government also made clear that the abolition of the council tax would be a major plank of their policy commitments for the 2011 elections.

Legal Issues

[redacted]

[redacted]

Graham

Graham Owenson
Head of Local Government Finance
Scottish Government
0131 24 47002
graham.owenson@scotland.gsi.gov.uk
Visit the LGF website at: http://www.scotland.gov.uk/Topics/Government/local-government/17999/11175

From: Hart K (Katherine) **On Behalf Of** Cabinet Secretary for Finance and Sustainable Growth
Sent: 17 March 2011 12:27
To: Owenson G (Graham)
Cc: Permanent Secretary; DG Governance & Communities; Davidson S (Sarah); Davidson IS (Ian) (PSDD); Beattie C (Caroline); Bruce S (Stephen); Cackette PH (Paul); Sinclair MA (Murray); Lindsay R (Ross); Communications Wealthier & Fairer; First Minister; Cabinet Secretary for Finance and Sustainable Growth; Minister for Parliamentary Business; Pringle K (Kevin); Gethins S (Stephen)
Subject: RE: FOI Request Simon Johnson

Graham

Thanks. Mr Swinney has seen and noted.

Katherine

KATHERINE HART
APS/Cabinet Secretary for Finance and Sustainable Growth

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Click here to see the Cabinet Secretary's preferences

From: McLear S (Scott) **On Behalf Of** Minister for Parliamentary Business
Sent: 23 March 2011 13:24
To: Sinclair MA (Murray)
Cc: Minister for Parliamentary Business; Cabinet Secretary for Finance and Sustainable Growth; First Minister; [redacted]; Permanent Secretary; DG Governance & Communities; Owenson GA (Geoff); Cackette PH (Paul); Beattie C (Caroline); Bruce S (Stephen); [redacted]
Subject: RE: URGENT ; SIMON JOHNSTON FOI CASE

Murray

I can confirm that Mr Crawford is content to appeal.

Thanks

Scott McLear
Diary and Correspondence Secretary
Minister for Parliamentary Business
T4.21 Scottish Parliament

Tel 0131-348-5568
Fax 0131-348-5564

Please see the Ministers Preferences which may be of assistance to you.

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From: Bruce S (Stephen)
Sent: 05 April 2011 15:52
To: Berry MA (Michael)(Communications); Cabinet Secretary for Finance and Sustainable Growth; Minister for Parliamentary Business; Permanent Secretary; DG Governance & Communities; Beattie C (Caroline); Chief Economic Adviser; Gillespie G (Gary); Davidson S (Sarah); Davidson IS (Ian) (PSDD); Owenson G (Graham); Lindsay R (Ross); Mochrie Z (Zoe); Sinclair MA (Murray); Cackette PH (Paul); Lavelle B (Brian); Baird A (Andrew); Wilson F (Fiona) (Communications); Hamilton D (David) (Corporate Communications); Trotter N (Neil); Jays T (Tim); Cooper S (Stewart); Nicolson S (Stuart) Special Adviser; Gethins S (Stephen); McLeish W (Will); Communications First Minister; Corporate Communications; Bergin C (Christopher); Communications Safer & Stronger
Subject: RE: FOI - appeal against Commissioner's decision 025/2011
Importance: High

Michael

I don't think the current appeal has much in common with the cases to which Tom Gordon refers [redacted]

I agree that we should stick to the previously agreed line, with the addition of a sentence on the lines you suggest. I would suggest rewording it slightly – "Every request for information must be considered on its own merits.".
Stephen

FOI Unit
Ext 45537

From: Berry MA (Michael)(Communications)
Sent: 05 April 2011 14:07
To: Cabinet Secretary for Finance and Sustainable Growth; Minister for Parliamentary Business; Permanent Secretary; DG Governance & Communities; Beattie C (Caroline); Chief Economic Adviser; Gillespie G (Gary); Davidson S (Sarah); Davidson IS (Ian) (PSDD); Owenson G (Graham); Lindsay R (Ross); Mochrie Z (Zoe); Bruce S (Stephen); Sinclair MA (Murray); Cackette PH (Paul); Lavelle B (Brian); Baird A (Andrew); Wilson F (Fiona) (Communications); Hamilton D (David) (Corporate Communications); Trotter N (Neil); Jays T (Tim); Cooper S (Stewart); Nicolson S (Stuart) Special Adviser; Gethins S (Stephen); McLeish W (Will); Communications First Minister; Corporate Communications; Bergin C (Christopher); Communications Safer & Stronger
Subject: FOI - appeal against Commissioner's decision 025/2011

Another query from the Herald, today Tom Gordon is asking about these cases:

The Scottish Ministers v The Scottish Information Commissioner (William Alexander's Application) and The Scottish Ministers v The Scottish Information Commissioner (David Elstone and Martin Willams's Applications) See: http://www.scotcourts.gov.uk/opinions/2007CSIH08.html

Tom says: "The issue of confidential advice to ministers and whether such information can be exempt as a class of information (ie the 'point of principle' referred to last week by the First Minister) has already been tested in the Court of Session. Three judges, including the Lord President, found for the Commissioner. So why, in light of this previous opinion, are ministers returning to court to go over old ground? Surely this only adds to the impression that the current appeal is being brought to suppress politically inconvenient material on local income tax?"

In terms of a response, I think it is still advisable to stick to the line we have been using but consider adding a sentence as below:

A Scottish Government spokesman said: "Ministers have appealed the Commissioner's Decision to the Court of Session as they consider that the decision is not in line with the provisions of Freedom of Information (Scotland) Act 2002. Every request for information must be individually considered. Pending the Court's consideration of the appeal it would be inappropriate to comment further."

I would welcome any comments on this, [redacted]

Thanks
Michael
42967

From: McDougall G (Gavin) **On Behalf Of** Minister for Parliamentary Business
Sent: 05 April 2011 16:14
To: Berry MA (Michael)(Communications); Cabinet Secretary for Finance and Sustainable Growth
Cc: Bruce S (Stephen); Minister for Parliamentary Business; Permanent Secretary; DG Governance & Communities; Beattie C (Caroline); Chief Economic Adviser; Gillespie G (Gary); Davidson S (Sarah); Davidson IS (Ian) (PSDD); Owenson G (Graham); Lindsay R (Ross); Mochrie Z (Zoe); Sinclair MA (Murray); Cackette PH (Paul); Lavelle B (Brian); Baird A (Andrew); Wilson F (Fiona) (Communications); Hamilton D (David) (Corporate Communications); Trotter N (Neil); Jays T (Tim); Cooper S (Stewart); Nicolson S (Stuart) Special Adviser; Gethins S (Stephen); McLeish W (Will); Communications First Minister; Corporate Communications; Bergin C (Christopher); Communications Safer & Stronger
Subject: RE: FOI - appeal against Commissioner's decision 025/2011
Importance: High

Michael

Mr Crawford is content for his interests.

Gavin McDougall
APS/Minister for Parliamentary Business
Room T4.21
Scottish Parliament
☎ 85592

Please see the Ministerial Preferences **which may be of assistance to you.** *All e-mails and attachments sent by a Ministerial Private Office to another official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the primary recipient. Private Offices do not keep official records of such e-mails or attachments.*

From: Berry MA (Michael)(Communications)
Sent: 05 April 2011 15:57
To: Cabinet Secretary for Finance and Sustainable Growth
Cc: Bruce S (Stephen); Minister for Parliamentary Business; Permanent Secretary; DG Governance & Communities; Beattie C (Caroline); Chief Economic Adviser; Gillespie G (Gary); Davidson S (Sarah); Davidson IS (Ian) (PSDD); Owenson G (Graham); Lindsay R (Ross); Mochrie Z (Zoe); Sinclair MA (Murray); Cackette PH (Paul); Lavelle B (Brian); Baird A (Andrew); Wilson F (Fiona) (Communications); Hamilton D (David) (Corporate Communications); Trotter N (Neil); Jays T (Tim); Cooper S (Stewart); Nicolson S (Stuart) Special Adviser; Gethins S (Stephen); McLeish W (Will); Communications First Minister; Corporate Communications; Bergin C (Christopher); Communications Safer & Stronger
Subject: RE: FOI - appeal against Commissioner's decision 025/2011

Paul

As discussed, can Mr Swinney please comment on/clear this line for Tom Gordon at the Herald.

A Scottish Government spokesman said: "Ministers have appealed the Commissioner's Decision to the Court of Session as they consider that the decision is not in line with the provisions of Freedom of Information (Scotland) Act 2002. Every request for information

must be considered on its own merits. Pending the Court's consideration of the appeal it would be inappropriate to comment further."

Regards
Michael
42967

From: Boylan P (Paul) **On Behalf Of** Cabinet Secretary for Finance and Sustainable Growth
Sent: 06 April 2011 09:01
To: Berry MA (Michael)(Communications); Cabinet Secretary for Finance and Sustainable Growth
Cc: Bruce S (Stephen); Minister for Parliamentary Business; Permanent Secretary; DG Governance & Communities; Beattie C (Caroline); Chief Economic Adviser; Gillespie G (Gary); Davidson S (Sarah); Davidson IS (Ian) (PSDD); Owenson G (Graham); Lindsay R (Ross); Mochrie Z (Zoe); Sinclair MA (Murray); Cackette PH (Paul); Lavelle B (Brian); Baird A (Andrew); Wilson F (Fiona) (Communications); Hamilton D (David) (Corporate Communications); Trotter N (Neil); Jays T (Tim); Cooper S (Stewart); Nicolson S (Stuart) Special Adviser; Gethins S (Stephen); McLeish W (Will); Communications First Minister; Corporate Communications; Bergin C (Christopher); Communications Safer & Stronger
Subject: RE: FOI - appeal against Commissioner's decision 025/2011

Michael,

Mr Swinney is also content.

Paul

Paul Boylan
DPS/Cabinet Secretary for Finance & Sustainable Growth
Scottish Government
Tel: 01312445202
Mob: 07717422442
E-mail: paul.boylan@scotland.gsi.gov.uk

Please consider the environment before printing this e-mail
All e-mails and attachments sent by a Ministerial Private Office to another official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the recipient. Private Offices do not keep official records of such e-mails or attachments.

Mr Swinney takes a Ministerial Box Monday to Thursday which closes at 16:00. Mr Swinney does not take a box on a Friday.

Click here to see John Swinney's Ministerial Preferences

-----Original Message-----
From: Wood K (Katie)
Sent: 12 April 2011 15:47
To: Permanent Secretary; Corporate Communications; Baird A (Andrew); Beattie C (Caroline); Sinclair MA (Murray); Booth J (John); Freedom of Information; Bruce S (Stephen); Mochrie Z (Zoe); Gray P (Paul)
Cc: Foster A (Angiolina); Cabinet Secretary for Finance and Sustainable Growth; First Minister; DG Governance & Communities
Subject: RE: Tom Greatrex MP

Dear all

For your information - response as issued today to Tom Greatrex.

Katie



s2dA550038D2E624
7836BEE39181E09DC

Katie Wood | Permanent Secretary's Office | Scottish Government | 0131 244 4026

-----Original Message-----
From: Wood K (Katie) On Behalf Of Permanent Secretary
Sent: 11 April 2011 11:51
To: Corporate Communications; Baird A (Andrew); Beattie C (Caroline); Sinclair MA (Murray); Booth J (John); Freedom of Information; Bruce S (Stephen); Mochrie Z (Zoe); Gray P (Paul)
Cc: Foster A (Angiolina); Cabinet Secretary for Finance and Sustainable Growth; First Minister; DG Governance & Communities
Subject: FW: Tom Greatrex MP

Dear all

I've attached for your information draft response that we have sent this morning to Gus O'Donnell for his consideration.

Katie

Katie Wood | Permanent Secretary's Office | Scottish Government | 0131 244 4026

-----Original Message-----
From: Wood K (Katie) On Behalf Of Permanent Secretary
Sent: 11 April 2011 11:30
To: [redacted]
Subject: RE: Tom Greatrex MP

[redacted]

I attach a short note from Peter to Gus incorporating a draft response. I also re-attach the letter from Tom Greatrex MP and a link to the Scottish Parliament Election Guidance 2011.

http://www.scotland.gov.uk/Resource/Doc/1124/0114298.pdf

Please just let me know if any other information would be helpful.

Kind regards

Katie

Katie Wood | Permanent Secretary's Office | Scottish Government | 0131 244 4026

-----Original Message-----
From: [redacted]
Sent: 07 April 2011 13:52
To: permsecscotland@flex-c.x.gsi.gov.uk; Wood K (Katie); MacDonald S (Susan) (Private Office)
Subject: Tom Greatrex MP
Importance: High

Dear Katie/Susan,

Please see attached from Tom Greatrex MP. Would it be possible to have a draft response for Gus by Monday? Do let me know if this is not possible, Gus is going away then so we are aiming to have everything signed off by then.

Happy to discuss,

[redacted]

[redacted]
Cabinet Secretary's Office

Cabinet Office | Making government work better | Web www.cabinet-office.gov.uk |
Telephone: 020 7276 1154

-----Original Message-----
From: Wood K (Katie) On Behalf Of Permanent Secretary
Sent: 08 April 2011 14:25
To: Foster A (Angiolina); Ellis T (Tim); Corporate Communications; Baird A (Andrew); Beattie C (Caroline); Sinclair MA (Murray); Booth J (John); Freedom of Information; Bruce S (Stephen); Mochrie Z (Zoe)
Cc: Cabinet Secretary for Finance and Sustainable Growth; First Minister; Gray P (Paul); DG Governance & Communities
Subject: FW: Tom Greatrex MP
Importance: High

Dear all

Letter from Tom Greatrex mentioned last week now been received by Cabinet Office and is attached.

We are due response to Cabinet Office by Monday and I have prepared attached draft. Perm Sec will see over the weekend - but grateful for comments in the meantime - in particular on area highlighted yellow re time frames.

We are aware of the document now available through the press today - but feel we still need to draft a response on the points raised in Mr Greatrex's letter.

Katie

Katie Wood | Permanent Secretary's Office | Scottish Government | 0131 244 4026


Perm Sec letter to Tom Greatrex DRAFT


document2011-04-07-140348.pdf

From: Hewlett D (Damon) **On Behalf Of** First Minister
Sent: 04 May 2011 16:13
To: Mochrie Z (Zoe); First Minister; Cabinet Secretary for Finance and Sustainable Growth; Minister for Parliamentary Business
Cc: Cabinet Secretary for Health and Wellbeing; Cabinet Secretary for Justice; Cabinet Secretary for Education and Lifelong Learning; Cabinet Secretary for Rural Affairs and the Environment; Minister for Children and Early Years; Minister for Community Safety; Minister for Culture and External Affairs; Minister for Enterprise, Energy and Tourism; Minister for Housing and Communities; Minister for Public Health and Sport; Minister for Skills and Lifelong Learning; Minister for Environment and Climate Change [redacted] Permanent Secretary; DG Governance & Communities; Davidson S (Sarah); Davidson IS (Ian) (PSDD); Owenson G (Graham); Lindsay R (Ross); Sinclair MA (Murray); Cackette PH (Paul); Beattie C (Caroline); Cairns A (Anne); Ferguson SE (Shirley); Bathgate SKR (Shona); Lavelle B (Brian); Troup C (Colin); Moises AC (Anne); Watson DB (Dave) (ISIS); Bruce S (Stephen); Lindsay K (Karen); DL SPADS; Cameron DA (Donald)
Subject: RE: FOI - APPEAL AGAINST COMMISSIONER'S DECISION - SIMON JOHNSON - Next Steps - revised attachment

Zoe

Thank you for your submission. The First Minister's Office is content to continue with the appeal process, as Mr Swinney and Mr Crawford have also confirmed.

Regards

Damon

Damon Hewlett

Assistant Private Secretary to the First Minister of Scotland
Scottish Government
5th Floor, St Andrew's House
Edinburgh
EH1 3DG

Tel: 0131 244 2016

From: Mochrie Z (Zoe)
Sent: 28 April 2011 16:31
To: First Minister; Cabinet Secretary for Finance and Sustainable Growth; Minister for Parliamentary Business
Cc: Cabinet Secretary for Health and Wellbeing; Cabinet Secretary for Justice; Cabinet Secretary for Education and Lifelong Learning; Cabinet Secretary for Rural Affairs and the Environment; Minister for Children and Early Years; Minister for Community Safety; Minister for Culture and External Affairs; Minister for Enterprise, Energy and Tourism; Minister for Housing and Communities; Minister for Public Health and Sport; Minister for Skills and Lifelong Learning; Minister for Environment and Climate Change [redacted] Permanent Secretary; DG Governance & Communities; Davidson S (Sarah); Davidson IS (Ian) (PSDD); Owenson G (Graham); Lindsay R (Ross); Sinclair MA (Murray); Cackette PH (Paul); Beattie C (Caroline); Cairns A (Anne); Ferguson SE (Shirley); Bathgate SKR (Shona); Lavelle B (Brian); Troup C (Colin); Moises AC (Anne); Watson DB (Dave) (ISIS); Bruce S (Stephen); Lindsay K (Karen); DL SPADS
Subject: FW: FOI - APPEAL AGAINST COMMISSIONER'S DECISION - SIMON JOHNSON - Next Steps - revised attachment
Importance: High

With sincere apologies, please replace the previous attachment with this one (minor changes to paras 2 and 10)

Many thanks

<< File: SJ Appeal - 28 April 2011.doc >>

Zoe
44605

From: Mochrie Z (Zoe)
Sent: 28 April 2011 16:07
To: First Minister; Cabinet Secretary for Finance and Sustainable Growth; Minister for Parliamentary Business
Cc: Cabinet Secretary for Health and Wellbeing; Cabinet Secretary for Justice; Cabinet Secretary for Education and Lifelong Learning; Cabinet Secretary for Rural Affairs and the Environment; Minister for Children and Early Years; Minister for Community Safety; Minister for Culture and External Affairs; Minister for Enterprise, Energy and Tourism; Minister for Housing and Communities; Minister for Public Health and Sport; Minister for Skills and Lifelong Learning; Minister for Environment and Climate Change; [redacted] Permanent Secretary; DG Governance & Communities; Davidson S (Sarah); Davidson IS (Ian) (PSDD); Owenson G (Graham); Lindsay R (Ross); Sinclair MA (Murray); Cackette PH (Paul); Beattie C (Caroline); Cairns A (Anne); Ferguson SE (Shirley); Bathgate SKR (Shona); Lavelle B (Brian); Troup C (Colin); Moises AC (Anne); Watson DB (Dave) (ISIS); Bruce S (Stephen); Lindsay K (Karen); DL SPADS
Subject: FOI - APPEAL AGAINST COMMISSIONER'S DECISION - SIMON JOHNSON - Next Steps
Importance: High

All,

Please find attached an urgent submission detailing next steps in the Simon Johnson FOI Appeal.
Grateful for a response from Ministers by **4 May**.

Many thanks

Zoe

Zoe Mochrie
Freedom of Information Unit
Area 3-D South
Victoria Quay
Edinburgh
EH6 6QQ

T: 0131 244 4605

From: Glass G (Gill) **On Behalf Of** Minister for Parliamentary Business
Sent: 03 May 2011 14:40
To: Mochrie Z (Zoe); First Minister; Cabinet Secretary for Finance and Sustainable Growth; Minister for Parliamentary Business
Cc: Cabinet Secretary for Health and Wellbeing; Cabinet Secretary for Justice; Cabinet Secretary for Education and Lifelong Learning; Cabinet Secretary for Rural Affairs and the Environment; Minister for Children and Early Years; Minister for Community Safety; Minister for Culture and External Affairs; Minister for Enterprise, Energy and Tourism; Minister for Housing and Communities; Minister for Public Health and Sport; Minister for Skills and Lifelong Learning; Minister for Environment and Climate Change [redacted] Permanent Secretary; DG Governance & Communities; Davidson S (Sarah); Davidson IS (Ian) (PSDD); Owenson G (Graham); Lindsay R (Ross); Sinclair MA (Murray); Cackette PH (Paul); Beattie C (Caroline); Cairns A (Anne); Ferguson SE (Shirley); Bathgate SKR (Shona); Lavelle B (Brian); Troup C (Colin); Moises AC (Anne); Watson DB (Dave) (ISIS); Bruce S (Stephen); Lindsay K (Karen); DL SPADS
Subject: RE: FOI - APPEAL AGAINST COMMISSIONER'S DECISION - SIMON JOHNSON - Next Steps - revised attachment

Zoe

Mr Crawford has now had chance to consider your submission. The Minister has indicated he wishes to continue with the appeal process.

Gill

PS/Minister for Parliamentary Business
0131 348 5593
07795222335

Please see the Ministerial Preferences which may be of assistance to you.
All e-mails and attachments sent by a Ministerial Private Office to another official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the primary recipient. Private Offices do not keep official records of such e-mails or attachments.

From: Mochrie Z (Zoe)
Sent: 13 June 2011 15:18
To: Cabinet Secretary for Parliamentary Business and Govt Strategy; Cabinet Secretary For Finance, Employment and Sustainable Growth
Cc: Minister for Parliamentary Business and Chief Whip; [redacted] DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Cackette PH (Paul); Cairns A (Anne); Gilmour J (Jim); Lindsay R (Ross)
Subject: FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]



FOI 10 00512 - Simon Johnson -...

Gill,

Please find attached an update on the Simon Johnson case as requested. [redacted]

Happy to discuss

Zoe

Zoe Mochrie
Freedom of Information Unit
Room GH-98
Victoria Quay
Edinburgh
EH6 6QQ

T: 0131 244 4605

From: Glass G (Gill) **On Behalf Of** Cabinet Secretary for Parliamentary Business and Govt Strategy
Sent: 22 June 2011 08:21
To: Mochrie Z (Zoe); Cabinet Secretary for Parliamentary Business and Govt Strategy; Cabinet Secretary For Finance, Employment and Sustainable Growth
Cc: Minister for Parliamentary Business and Chief Whip; [redacted] DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Cackette PH (Paul); Cairns A (Anne); Gilmour J (Jim); Lindsay R (Ross); Nicolson S (Stuart) Special Adviser; Bell A (Alex) Special Adviser; Pringle K (Kevin)
Subject: RE: FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]

Zoe

You confirmed that additional costs will only start to be incurred in the month prior to the case going to court.

Mr Crawford and Ms Swinney have discussed next steps and are content with your recommendation not to pursue the appeal.

Grateful if the plan could be discussed with Special advisers [redacted], policy leads and communications colleagues.

Special advisers should also be copied into all further exchanges on this matter.

The Cabinet Secretaries have asked for sight of the handling plan for an announcement next week. It would be helpful if this could be prepared for weekend boxes – Mr Crawford's box will close at 15:30 on Friday.

Happy to discuss

Gill

PS/Cabinet Secretary for Parliamentary Business and Government Strategy
0131 348 5593
07795222335

Please see the Ministerial Preferences **which may be of assistance to you.**
All e-mails and attachments sent by a Ministerial Private Office to another official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the primary recipient. Private Offices do not keep official records of such e-mails or attachments.

From: Glass G (Gill) **On Behalf Of** Cabinet Secretary for Parliamentary Business and Govt Strategy
Sent: 14 June 2011 15:31
To: Mochrie Z (Zoe); Cabinet Secretary for Parliamentary Business and Govt Strategy; Cabinet Secretary For Finance, Employment and Sustainable Growth
Cc: Minister for Parliamentary Business and Chief Whip; [redacted] DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Cackette PH (Paul); Cairns A (Anne); Gilmour J (Jim); Lindsay R (Ross); Pringle K (Kevin); Nicolson S (Stuart) Special Adviser
Subject: RE: FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]

Zoe

Subject to the views of Mr Swinney Mr Crawford has indicated he is content with the recommendation that Scottish Ministers should proceed no further with the appeal.

The Cabinet Secretary has asked Special Advisers to consider for handling purposes. I will forward on the original submission to Kevin and Stuart.

Gill

PS/Cabinet Secretary for Parliamentary Business and Government Strategy
0131 348 5593
07795222335

Please see the Ministerial Preferences **which may be of assistance to you.**
All e-mails and attachments sent by a Ministerial Private Office to another official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the primary recipient. Private Offices do not keep official records of such e-mails or attachments.

From: Mochrie Z (Zoe)
Sent: 09 June 2011 14:40
To: Lindsay R (Ross)
Subject: FMQs

It starts at 20:50 minutes in on holyrood tv

Zoe Mochrie
Freedom of Information Unit
Room GH-98
Victoria Quay
Edinburgh
EH6 6QQ

T: 0131 244 4605

From: Hart K (Katherine) **On Behalf Of** Cabinet Secretary for Finance and Sustainable Growth
Sent: 03 May 2011 13:11
To: Mochrie Z (Zoe)
Cc: Cabinet Secretary for Health and Wellbeing; Cabinet Secretary for Justice; Cabinet Secretary for Education and Lifelong Learning; Cabinet Secretary for Rural Affairs and the Environment; Minister for Children and Early Years; First Minister; Cabinet Secretary for Finance and Sustainable Growth; Minister for Parliamentary Business; Minister for Community Safety; Minister for Culture and External Affairs; Minister for Enterprise, Energy and Tourism; Minister for Housing and Communities; Minister for Public Health and Sport; Minister for Skills and Lifelong Learning; Minister for Environment and Climate Change; [redacted] Permanent Secretary; DG Governance & Communities; Davidson S (Sarah); Davidson IS (Ian) (PSDD); Owenson G (Graham); Lindsay R (Ross); Sinclair MA (Murray); Cackette PH (Paul); Beattie C (Caroline); Cairns A (Anne); Ferguson SE (Shirley); Bathgate SKR (Shona); Lavelle B (Brian); Troup C (Colin); Moises AC (Anne); Watson DB (Dave) (ISIS); Bruce S (Stephen); Lindsay K (Karen); DL SPADS
Subject: RE: FOI - APPEAL AGAINST COMMISSIONER'S DECISION - SIMON JOHNSON - Next Steps - revised attachment

Zoe,

FOI - APPEAL AGAINST COMMISSIONER'S DECISION - SIMON JOHNSON - Next Steps

Thank you for your minute. Mr Swinney has confirmed that he wishes to proceed to with the appeal process by enrolling for a hearing.

Thank you,

Katherine
0131 244 1558

From: Mochrie Z (Zoe)
Sent: 28 April 2011 16:31
To: First Minister; Cabinet Secretary for Finance and Sustainable Growth; Minister for Parliamentary Business
Cc: Cabinet Secretary for Health and Wellbeing; Cabinet Secretary for Justice; Cabinet Secretary for Education and Lifelong Learning; Cabinet Secretary for Rural Affairs and the Environment; Minister for Children and Early Years; Minister for Community Safety; Minister for Culture and External Affairs; Minister for Enterprise, Energy and Tourism; Minister for Housing and Communities; Minister for Public Health and Sport; Minister for Skills and Lifelong Learning; Minister for Environment and Climate Change; [redacted] Permanent Secretary; DG Governance & Communities; Davidson S (Sarah); Davidson IS (Ian) (PSDD); Owenson G (Graham); Lindsay R (Ross); Sinclair MA (Murray); Cackette PH (Paul); Beattie C (Caroline); Cairns A (Anne); Ferguson SE (Shirley); Bathgate SKR (Shona); Lavelle B (Brian); Troup C (Colin); Moises AC (Anne); Watson DB (Dave) (ISIS); Bruce S (Stephen); Lindsay K (Karen); DL SPADS
Subject: FW: FOI - APPEAL AGAINST COMMISSIONER'S DECISION - SIMON JOHNSON - Next Steps - revised attachment
Importance: High

With sincere apologies, please replace the previous attachment with this one (minor changes to paras 2 and 10)
Many thanks



SJ Appeal - 28 April 2011.doc ...

Zoe
44605

-----Original Message-----
From: Lindsay R (Ross)
Sent: 28 April 2011 09:31
To: Mochrie Z (Zoe); Owenson G (Graham); Davidson IS (Ian) (PSDD)
Cc: Bruce S (Stephen)
Subject: RE: Appeal by Scottish Ministers against a decision of the Scottish Information Commissioner - Simon Johnston

Zoe

We've discussed here this morning and this is very sensible advice which we're happy to accept - Circumstances have changed substantially and we certainly would want to take the views of incoming Ministers.

Regards

Ross Lindsay
Local Government Division: Council Tax Reform
0131 244 7003

-----Original Message-----
From: Mochrie Z (Zoe)
Sent: 28 April 2011 09:01
To: Lindsay R (Ross); Owenson G (Graham); Davidson IS (Ian) (PSDD)
Cc: Bruce S (Stephen)
Subject: FW: Appeal by Scottish Ministers against a decision of the Scottish Information Commissioner - Simon Johnston
Importance: High

Gentlemen,

Please see exchanges below (unaccountably you have not been copied in).
I am inclined to agree with Paul, but feel Ministers ought to be informed of our approach.
Do you have a view?

Thanks

Zoe
44605

From: Lindsay R (Ross)
Sent: 21 March 2011 09:57
To: Beattie C (Caroline); Owenson G (Graham); Davidson IS (Ian) (PSDD); Bruce S (Stephen)
Cc: Permanent Secretary; [redacted] Cackette PH (Paul); Sinclair MA (Murray); DG Governance & Communities
Subject: FW: FOI Request Simon Johnson[redacted]
Importance: High

Thank you Caroline.

Copying to Paul Gray who was asking about these issues a few moments ago.

Ross Lindsay
Local Government Division: Council Tax Reform
0131 244 7003

From: Mochrie Z (Zoe)
Sent: 31 March 2011 17:15
To: Minister for Parliamentary Business
Subject: Simon Johnson timeline
Importance: High

Gill,

Please find attached brief overview of the timeline in this case. Happy to provide further detail if required.



FOI - Simon Johnson - Timeline..

Zoe

Zoe Mochrie
Freedom of Information Unit
Area 3-D South
Victoria Quay
Edinburgh
EH6 6QQ

T: 0131 244 4605

From: Mochrie Z (Zoe)
Sent: 23 June 2011 12:19
To: Cabinet Secretary for Parliamentary Business and Govt Strategy
Cc: Minister for Parliamentary Business and Chief Whip
Subject: Simon Johnson appeal - advice on potential costs
Importance: High

Gill,

As requested, very brief note on potential costs.
Please note that these can be nothing more than estimates as we are not sighted on the costs incurred by the Commissioner.

Thanks

Zoe
44605

[redacted]

Total costs to date associated with the appeal against the Decision - £7500 (inc VAT)

We can anticipate that pursuing the appeal will incur costs at a slightly higher level than the appeal against the Information Notice (which was abandoned prior to the hearing as the Information Commissioner withdrew the Notice). Therefore, the likely **additional** costs of pursuing the appeal may be in excess of £30,000.

In the event that the appeal is abandoned, the Scottish Ministers will be liable for the costs of the Scottish Information Commissioner. At present we expect his costs to be broadly similar to our own (c £5,000-£10,000). However, these costs may increase significantly closer to the date of the appeal, when Counsel will be retained to work on the case.

If we were to continue the appeal and lose, it is likely that Ministers would be liable for the Commissioner's costs as well, effectively doubling the costs to somewhere in the region of £80,000.

Zoe Mochrie
Freedom of Information Unit
Room GH-98
Victoria Quay
Edinburgh
EH6 6QQ

T: 0131 244 4605

From: Mochrie Z (Zoe)
Sent: 24 June 2011 15:29
To: Cabinet Secretary for Parliamentary Business and Govt Strategy; Cabinet Secretary For Finance, Employment and Sustainable Growth
Cc: Minister for Parliamentary Business and Chief Whip; [redacted] Permanent Secretary; DG Governance & Communities; Cackette PH (Paul); Bathgate SKR (Shona); Lavelle B (Brian); Lindsay R (Ross); Gilmour J (Jim); MacKinnon K (Karen); Davidson S (Sarah); Davidson IS (Ian) (PSDD); Cairns A (Anne); Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Trotter N (Neil); Berry MA (Michael)(Communications); Pringle K (Kevin); Bell A (Alex) Special Adviser; Nicolson S (Stuart) Special Adviser
Subject: FOI Appeal to the Court of Session - Simon Johnson - Handling Plan - 24 June 2011

Gill,

Please find attached draft handling plan as requested on 22 June. Special Advisers have not yet commented on the draft.



FOI appeal to the court of ses...

Zoe

Zoe Mochrie
Freedom of Information Unit
Room GH-98
Victoria Quay
Edinburgh
EH6 6QQ

T: 0131 244 4605

-----Original Message-----
From: Mochrie Z (Zoe)
Sent: 11 July 2011 17:01
To: Owenson G (Graham); Cairns A (Anne); Permanent Secretary; Gilmour J (Jim)
Cc: Lindsay R (Ross); DG Governance & Communities; Bruce S (Stephen)
Subject: Urgent - RE: LIT FOI release
Importance: High

Dear all,

With thanks to Ross and Stephen for their efforts, please see updated lines for comment and some additional input.

[redacted]

2. Anne, specific query for you on p4 please

3. Perm Sec's office - could you confirm the response on p3 re internal enquiry into the leak is factually accurate please?

Though I still don't know when the information is likely to be released, I am keen that comms have this information to hand. Therefore grateful for your early comments, preferably before close tomorrow so I can forward to Neil.

Happy to discuss.

Zoe
44605

-----Original Message-----
From: Bruce S (Stephen)
Sent: 08 July 2011 10:28
To: Mochrie Z (Zoe)
Cc: Owenson G (Graham); Lindsay R (Ross)
Subject: RE: LIT FOI release

Zoe

[redacted]

[redacted]

Coincidentally, Stuart in Mr Swinney's office phoned for an update on the case to give to the Cab Sec when he returns from holiday, so I told him that the plan was now to release sometime next week. He asked to be kept up to date.

Ross is drafting some lines to respond to the policy questions in Neil's e-mail and will send them to us to complete and for comments. I will start looking at these today

Stephen

-----Original Message-----
From: Mochrie Z (Zoe)
Sent: 08 July 2011 08:11
To: Bruce S (Stephen)
Subject: Fw: LIT FOI release

Stephen,

to be aware - questions may be coming your way.
Everything we have on Johnson is in the case file or the 2009 appeal file.

Thanks

Zoe

-----Original Message-----
From: Davidson IS (Ian) (PSDD)
Sent: 07 July 2011 18:42
To: Owenson G (Graham); Mochrie Z (Zoe)
Cc: Trotter N (Neil); Gilmour J (Jim); Lindsay R (Ross)
Subject: LIT FOI release

Graham
Zoe

Neil tells me that Ministers would like to release the FOI tomorrow. I could not see any difficulty from our perspective but I'm not sighted on the latest on the appeal and notifying the Commissioner and whether there are any processes that need to be gone through that would make this difficult.

In practical terms I assume LG Division would handle release to applicant and Zoe [redacted] would manage other elements [redacted]

Neil will work up some lines on the assumption that this is good to go. Can you let him know ASAP tomorrow if there are any problems.

Ian

From: Mochrie Z (Zoe)
Sent: 12 July 2011 10:05
To: Lindsay R (Ross); Cairns A (Anne); Bathgate SKR (Shona)
Cc: Gilmour J (Jim); Owenson G (Graham)
Subject: RE: Urgent - RE: LIT FOI release

Thanks Ross,

[redacted]

On the current appeal, I know we have to add in another [redacted] and another £45 court fees to withdraw the appeal.
Which brings us to £7595.
Are we content with this?

Zoe

From: Lindsay R (Ross)
Sent: 12 July 2011 09:57
To: Mochrie Z (Zoe); Owenson G (Graham); Cairns A (Anne); Permanent Secretary; Gilmour J (Jim)
Cc: DG Governance & Communities; Bruce S (Stephen); Bathgate SKR (Shona)
Subject: RE: Urgent - RE: LIT FOI release

Zoe

[redacted]

Regarding costs for the current appeal, we (Local Government Division)currently have journal transfer request [redacted] amounting to £6350 (inc vat). However, these are after the fact and may not include all costs, court costs & fees and advice to date. [redacted]

Happy to discuss

Ross Lindsay
Local Government Division: Council Tax Reform
0131 244 7003

From: Rae C (Carolyn)
Sent: 14 July 2011 16:20
To: Pringle K (Kevin); First Minister; Cabinet Secretary For Finance, Employment and Sustainable Growth; Gilmour J (Jim); Mochrie Z (Zoe); Gethins S (Stephen); Communications Wealthier & Fairer; Wilson F (Fiona) (Communications); MacInnes J (John)
Cc: Minister for Parliamentary Business and Chief Whip; [redacted] DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Cackette PH (Paul); Cairns A (Anne); Lindsay R (Ross); Cabinet Secretary for Parliamentary Business and Govt Strategy; Permanent Secretary; DG Governance & Communities; Nicolson S (Stuart) Special Adviser; Bell A (Alex) Special Adviser; Sinclair MA (Murray); Owenson G (Graham)
Subject: RE: IMMEDIATE - FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]

FOI LIT - DRAFT 14 JULY 2011 (...

Final, proofed version attached. Just deleted 'As set out in our manifesto' at the last par of the quote.

I will issue this via newslink to mainlists at 4.30pm and issue the pdf docs to Simon Johnson once I issue.

Carolyn

From: Pringle K (Kevin)
Sent: 14 July 2011 16:13
To: First Minister; Cabinet Secretary For Finance, Employment and Sustainable Growth; Rae C (Carolyn); Gilmour J (Jim); Mochrie Z (Zoe); Gethins S (Stephen); Communications Wealthier & Fairer; Wilson F (Fiona) (Communications); MacInnes J (John)
Cc: Minister for Parliamentary Business and Chief Whip; [redacted] DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Cackette PH (Paul); Cairns A (Anne); Lindsay R (Ross); Cabinet Secretary for Parliamentary Business and Govt Strategy; Permanent Secretary; DG Governance & Communities; Nicolson S (Stuart) Special Adviser; Bell A (Alex) Special Adviser; Sinclair MA (Murray); Owenson G (Graham)
Subject: RE: IMMEDIATE - FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]

Final draft, if it could be checked for typos.
Karen can advise on release time – I think 4.30pm, so that the legal process can have taken its course first.

<< File: FOI LIT - DRAFT 14 JULY 2011 (4).doc >>

From: Watt K (Karen) **On Behalf Of** First Minister
Sent: 14 July 2011 16:01
To: Cabinet Secretary For Finance, Employment and Sustainable Growth; Pringle K (Kevin); Rae C (Carolyn); Gilmour J (Jim); Mochrie Z (Zoe); First Minister; Gethins S (Stephen); Communications Wealthier & Fairer; Wilson F (Fiona) (Communications); MacInnes J (John)
Cc: Minister for Parliamentary Business and Chief Whip; [redacted]; DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Cackette PH (Paul); Cairns A (Anne); Lindsay R (Ross); Cabinet Secretary for Parliamentary Business and Govt Strategy; Permanent Secretary; DG Governance & Communities; Nicolson S (Stuart) Special

Adviser; Bell A (Alex) Special Adviser; Sinclair MA (Murray); Owenson G (Graham)
Subject: RE: IMMEDIATE - FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]

Paul, the conversation with Mr Swinney was extremely useful – thank you. I have now spoken to the First Minister to inform him about Mr Swinney's statement, its planned release at around 4.30pm and the process/timing of the next legal steps. He has suggested a very slight tweak to the press release which Kevin Pringle is currently dealing with, but which keeps unchanged the sentiment and substance of the statement.

Zoe, I would be grateful if you could [redacted] to intimate the motion to the OSIC legal team and the Court, and to take whatever necessary next legal steps are required.

I am grateful to all for your advice on this matter.
Regards, Karen

Karen Watt I Principal Private Secretary I Office of the First Minister I Tel: 0131 244 5218

All emails and attachments sent by a Ministerial Private Office to another official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the primary recipient. Private Offices do not keep official records of such emails or attachments.

From: Boylan P (Paul) **On Behalf Of** Cabinet Secretary For Finance, Employment and Sustainable Growth
Sent: 14 July 2011 15:02
To: Pringle K (Kevin); Rae C (Carolyn); Gilmour J (Jim); Mochrie Z (Zoe); Cabinet Secretary For Finance, Employment and Sustainable Growth; First Minister; Gethins S (Stephen); Communications Wealthier & Fairer; Wilson F (Fiona) (Communications); MacInnes J (John)
Cc: Minister for Parliamentary Business and Chief Whip; [redacted] DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Cackette PH (Paul); Cairns A (Anne); Lindsay R (Ross); Cabinet Secretary for Parliamentary Business and Govt Strategy; Permanent Secretary; DG Governance & Communities; Nicolson S (Stuart) Special Adviser; Bell A (Alex) Special Adviser; Sinclair MA (Murray); Owenson G (Graham)
Subject: RE: IMMEDIATE - FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]

Kevin & Carolyn,

Mr Swinney is content with the release and is also content for it to be issued pro-actively.

Regards

Paul

Paul Boylan
DPS/Cabinet Secretary for Finance, Employment & Sustainable Growth
Scottish Government
Tel: 01312445202
Mob: 07717422442
E-mail: paul.boylan@scotland.gsi.gov.uk

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Mr Swinney takes a Ministerial Box Monday to Thursday which closes at 16:00. Mr Swinney does not take a box on a Friday.

Click here to see John Swinney's Ministerial Preferences

From: Pringle K (Kevin)
Sent: 14 July 2011 14:39
To: Rae C (Carolyn); Gilmour J (Jim); Mochrie Z (Zoe); Cabinet Secretary For Finance, Employment and Sustainable Growth; First Minister; Gethins S (Stephen); Communications Wealthier & Fairer; Wilson F (Fiona) (Communications); MacInnes J (John)
Cc: Minister for Parliamentary Business and Chief Whip; [redacted] DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Cackette PH (Paul); Cairns A (Anne); Lindsay R (Ross); Cabinet Secretary for Parliamentary Business and Govt Strategy; Permanent Secretary; DG Governance & Communities; Nicolson S (Stuart) Special Adviser; Bell A (Alex) Special Adviser; Sinclair MA (Murray); Owenson G (Graham)
Subject: RE: IMMEDIATE - FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]

<< File: FOI LIT - DRAFT 14 JULY 2011 (4).doc >>

Attached is a new draft for the Cab Sec to see [redacted]

From: Rae C (Carolyn)
Sent: 14 July 2011 13:07
To: Gilmour J (Jim); Mochrie Z (Zoe); Cabinet Secretary For Finance, Employment and Sustainable Growth; First Minister; Pringle K (Kevin); Gethins S (Stephen); Communications Wealthier & Fairer; Wilson F (Fiona) (Communications); MacInnes J (John)
Cc: Minister for Parliamentary Business and Chief Whip; [redacted] DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Cackette PH (Paul); Cairns A (Anne); Lindsay R (Ross); Cabinet Secretary for Parliamentary Business and Govt Strategy; Permanent Secretary; DG Governance & Communities; Nicolson S (Stuart) Special Adviser; Bell A (Alex) Special Adviser; Sinclair MA (Murray); Owenson G (Graham)
Subject: RE: IMMEDIATE - FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]

<< File: NEWS RELEASE - FOI LIT - DRAFT 14 JULY 2011.doc >>
I have updated the attached draft. Just to be clear, I have only drafted as a news release to ensure that we have all the key bits of information outlined in a release, should we go with a release. There is also a possibility that lines will be issued reactively in the name of a SG spokesperson, should news break that we have withdrawn the appeal.

From: Gilmour J (Jim)
Sent: 14 July 2011 12:59
To: Rae C (Carolyn); Mochrie Z (Zoe); Cabinet Secretary For Finance, Employment and Sustainable Growth; First Minister; Pringle K (Kevin); Gethins S (Stephen); Communications Wealthier & Fairer; Wilson F (Fiona) (Communications); MacInnes J (John)
Cc: Minister for Parliamentary Business and Chief Whip; [redacted] DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Cackette PH (Paul); Cairns A (Anne); Lindsay R (Ross); Cabinet Secretary for Parliamentary Business and Govt Strategy; Permanent Secretary; DG Governance & Communities; Nicolson S (Stuart) Special

Adviser; Bell A (Alex) Special Adviser; Sinclair MA (Murray); Owenson G (Graham)
Subject: RE: IMMEDIATE - FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]

Zoe

A couple of further changes.

Jim Gilmour
Local Government - Local Taxation
Scottish Government, 3-J (North),
Victoria Quay,
Edinburgh
EH6 6QQ
Tel: 0131 244 7159

<< File: NEWS RELEASE - FOI LIT - DRAFT 14 JULY 2011.doc >>

From: Rae C (Carolyn)
Sent: 14 July 2011 12:33
To: Mochrie Z (Zoe); Cabinet Secretary For Finance, Employment and Sustainable Growth; First Minister; Pringle K (Kevin); Gethins S (Stephen); Communications Wealthier & Fairer; Wilson F (Fiona) (Communications); MacInnes J (John)
Cc: Minister for Parliamentary Business and Chief Whip [redacted] DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Cackette PH (Paul); Cairns A (Anne); Gilmour J (Jim); Lindsay R (Ross); Cabinet Secretary for Parliamentary Business and Govt Strategy; Permanent Secretary; DG Governance & Communities; Nicolson S (Stuart) Special Adviser; Bell A (Alex) Special Adviser; Sinclair MA (Murray); Owenson G (Graham)
Subject: RE: IMMEDIATE - FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]

<< File: NEWS RELEASE - FOI LIT - DRAFT 14 JULY 2011.doc >>
Thanks Zoe. I have updated the release to reflect comments from you and special advisers.
Carolyn

From: Mochrie Z (Zoe)
Sent: 14 July 2011 12:17
To: Rae C (Carolyn); Cabinet Secretary For Finance, Employment and Sustainable Growth; First Minister; Pringle K (Kevin); Gethins S (Stephen); Communications Wealthier & Fairer; Wilson F (Fiona) (Communications)
Cc: Minister for Parliamentary Business and Chief Whip; [redacted] DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Cackette PH (Paul); Cairns A (Anne); Gilmour J (Jim); Lindsay R (Ross); Cabinet Secretary for Parliamentary Business and Govt Strategy; Permanent Secretary; DG Governance & Communities; Nicolson S (Stuart) Special Adviser; Bell A (Alex) Special Adviser; Sinclair MA (Murray); Owenson G (Graham)
Subject: RE: IMMEDIATE - FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]

Thanks Carolyn,

Some tracked changes from me, attached.

Zoe
<< File: NEWS RELEASE - FOI LIT - DRAFT 14 JULY 2011.doc >>

From: Rae C (Carolyn)
Sent: 14 July 2011 12:09
To: Mochrie Z (Zoe); Cabinet Secretary For Finance, Employment and Sustainable Growth; First Minister; Pringle K (Kevin); Gethins S (Stephen); Communications Wealthier & Fairer; Wilson F (Fiona) (Communications)
Cc: Minister for Parliamentary Business and Chief Whip; [redacted] DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Cackette PH (Paul); Cairns A (Anne); Gilmour J (Jim); Lindsay R (Ross); Cabinet Secretary for Parliamentary Business and Govt Strategy; Permanent Secretary; DG Governance & Communities; Nicolson S (Stuart) Special Adviser; Bell A (Alex) Special Adviser; Sinclair MA (Murray)
Subject: RE: IMMEDIATE - FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]

<< File: NEWS RELEASE - FOI LIT - DRAFT 14 JULY 2011.doc >>
Zoe, Stephen and Graham
I am aware that the Cab Sec has limited time to consider the draft release/statement. And I know we have yet to decided on how we release our statement, but can you please have a look at the first draft and suggest any changes so we can run past him around 2.30pm?
Carolyn

From: Mochrie Z (Zoe)
Sent: 14 July 2011 11:01
To: Cabinet Secretary For Finance, Employment and Sustainable Growth; First Minister; Pringle K (Kevin); Gethins S (Stephen); Communications Wealthier & Fairer; Rae C (Carolyn)
Cc: Minister for Parliamentary Business and Chief Whip; [redacted] DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Cackette PH (Paul); Cairns A (Anne); Gilmour J (Jim); Lindsay R (Ross); Cabinet Secretary for Parliamentary Business and Govt Strategy; Permanent Secretary; DG Governance & Communities; Nicolson S (Stuart) Special Adviser; Bell A (Alex) Special Adviser; Sinclair MA (Murray)
Subject: RE: IMMEDIATE - FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]
Importance: High

Karen,

Further to our conversation this morning, please find attached lines prepared for Comms colleagues with reference to the abandonment of the appeal.
These have now been **revised** to take account of comments received from the First Minister.

<< File: Decision 025_2011 - FOI_09_00512 - Simon Johnson - potential release of information - lines to take Q&A - 8 July 2011.doc >>
Also attached [redacted] intimation of motion to abandon.

<< File: FOI appeal letter to Anderson Strathern 14 July 2011.doc >>
Happy to discuss/liaise as appropriate with Comms lead and grateful for an indication of when we will be ready to go with this. OSIC's solicitors need to be informed by the end of the day.

Finally, can I take this opportunity to remind colleagues of the importance of filing correspondence in relation to this appeal appropriately.
Taking a little time now to file documents we necessarily require for the official record will save time if/when someone asks for 'all correspondence related to the appeal'. The originator of an email chain has responsibility for filing, though any correspondence from Private Office/Special Advisers should be filed by the primary recipient.

Many thanks

Zoe

From: Boylan P (Paul) **On Behalf Of** Cabinet Secretary For Finance, Employment and Sustainable Growth
Sent: 13 July 2011 18:25
To: Mochrie Z (Zoe); First Minister; Pringle K (Kevin)
Cc: Minister for Parliamentary Business and Chief Whip [redacted] DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Cackette PH (Paul); Cairns A (Anne); Gilmour J (Jim); Lindsay R (Ross); Cabinet Secretary for Parliamentary Business and Govt Strategy; Cabinet Secretary For Finance, Employment and Sustainable Growth; Permanent Secretary; DG Governance & Communities; Nicolson S (Stuart) Special Adviser; Bell A (Alex) Special Adviser; Sinclair MA (Murray)
Subject: RE: IMMEDIATE - FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]

Zoe,

Mr Swinney has discussed this matter with the First Minister. Mr Swinney and the First Minister have agreed to withdraw from legal action in this case. However, the sentiment and direction with which Mr Swinney and the First Minister would like this underpinned in all communications is set out below;

The Scottish Government continue to defend the principle that advice to Scottish Government Ministers is private and we will continue to defend that principle in our further actions but we see no purpose in doing that in this case as the information is effectively in the public domain. We are not conceding the principle.

Grateful if you can now take this forward in consultation with Kevin Pringle regarding timing.

Regards

Paul

Paul Boylan
DPS/Cabinet Secretary for Finance, Employment & Sustainable Growth
Scottish Government
Tel: 01312445202
Mob: 07717422442
E-mail: paul.boylan@scotland.gsi.gov.uk

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Mr Swinney takes a Ministerial Box Monday to Thursday which closes at 16:00. Mr Swinney does not take a box on a Friday.

Click here to see John Swinney's Ministerial Preferences

From: Mochrie Z (Zoe)
Sent: 12 July 2011 16:28
To: First Minister; Pringle K (Kevin)
Cc: Minister for Parliamentary Business and Chief Whip; [redacted] DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Cackette PH (Paul); Cairns A (Anne); Gilmour J (Jim); Lindsay R (Ross); Cabinet Secretary for Parliamentary Business and Govt Strategy; Cabinet Secretary For Finance, Employment and Sustainable Growth; Permanent Secretary; DG Governance & Communities; Nicolson S (Stuart) Special Adviser; Bell A (Alex) Special Adviser; Sinclair MA (Murray)
Subject: IMMEDIATE - FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]
Importance: High

Karen, Kevin,

For urgent consideration:-

Please find attached a submission dated 13 June relating to the Simon Johnson FOI Appeal.

[redacted]

[redacted]

This week, events at Court have begun to impinge on the time available for the Ministers to come to a formal decision in respect of this appeal.
Both the Court and the Commissioner's legal team are pressing for a date to be fixed for a hearing. This would have the effect of continuing the appeal.
In the absence of a decision from the First Minister by **noon on Thursday** (to allow some time for SGLD to prepare and submit a motion to abandon), we will be forced to attend Court to fix a hearing on Friday morning.

[redacted]

Happy to discuss,

Zoe
44605

From: Owenson G (Graham)
Sent: 14 July 2011 16:19
To: First Minister; Cabinet Secretary For Finance, Employment and Sustainable Growth; Pringle K (Kevin); Rae C (Carolyn); Gilmour J (Jim); Mochrie Z (Zoe); Gethins S (Stephen); Communications Wealthier & Fairer; Wilson F (Fiona) (Communications); MacInnes J (John)
Cc: Minister for Parliamentary Business and Chief Whip; [redacted]; DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Cackette PH (Paul); Cairns A (Anne); Lindsay R (Ross); Cabinet Secretary for Parliamentary Business and Govt Strategy; Permanent Secretary; DG Governance & Communities; Nicolson S (Stuart) Special Adviser; Bell A (Alex) Special Adviser; Sinclair MA (Murray); Davidson IS (Ian) (PSDD)
Subject: RE: IMMEDIATE - FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]

And just to note for completeness that the actual documents (see attached copies) which were the subject of the appeal will be released today (at 4:30pm) by Communications to Simon Johnson and we will also publish them in the Local Government section of the Scottish Government website.


lit projection paper.pdf (359 ...


lit projection submission.pdf ...

Graham

Graham Owenson
Head of Local Government Finance

Scottish Government
0131 24 47002
graham.owenson@scotland.gsi.gov.uk
Visit the LGF website at: http://www.scotland.gov.uk/Topics/Government/local-government/17999/11175

From: Mochrie Z (Zoe)
Sent: 14 July 2011 16:14
To: First Minister; Cabinet Secretary For Finance, Employment and Sustainable Growth; Pringle K (Kevin); Rae C (Carolyn); Gilmour J (Jim); Gethins S (Stephen); Communications Wealthier & Fairer; Wilson F (Fiona) (Communications); MacInnes J (John)
Cc: Minister for Parliamentary Business and Chief Whip; [redacted]; DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Cackette PH (Paul); Cairns A (Anne); Lindsay R (Ross); Cabinet Secretary for Parliamentary Business and Govt Strategy; Permanent Secretary; DG Governance & Communities; Nicolson S (Stuart) Special Adviser; Bell A (Alex) Special Adviser; Sinclair MA (Murray); Owenson G (Graham)
Subject: RE: IMMEDIATE - FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]

Karen,

Happy to confirm that the motion has been intimated to OSIC's legal team and that the Court has been informed.

Zoe

From: Mochrie Z (Zoe)
Sent: 12 July 2011 16:52
To: First Minister; Pringle K (Kevin)
Cc: Minister for Parliamentary Business and Chief Whip; [redacted] DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS); Beattie C (Caroline); Cackette PH (Paul); Cairns A (Anne); Gilmour J (Jim); Lindsay R (Ross); Cabinet Secretary for Parliamentary Business and Govt Strategy; Cabinet Secretary For Finance, Employment and Sustainable Growth; Permanent Secretary; DG Governance & Communities; Nicolson S (Stuart) Special Adviser; Bell A (Alex) Special Adviser; Sinclair MA (Murray)
Subject: FW: IMMEDIATE - FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]
Importance: High

Karen, Kevin,



FOI appeal to the court of ses...

Apologies, you will also wish to be aware of issues with regards to timing of any announcement.
The attached plan refers, but was drafted on the basis of announcement by IPQ. This option is now more problematic as parliament is in recess.

Regards

Zoe

-----Original Message-----
From: Mochrie Z (Zoe)
Sent: 12 July 2011 15:29
To: Communications Wealthier & Fairer
Subject: FW: Urgent - RE: LIT FOI release

In Neil's absence, please note the attached.
Thanks

Zoe

-----Original Message-----
From: Mochrie Z (Zoe)
Sent: 12 July 2011 15:24
To: Trotter N (Neil)
Cc: Lindsay R (Ross); DG Governance & Communities; Bruce S (Stephen); Cairns A (Anne); Owenson G (Graham); Permanent Secretary; Gilmour J (Jim); Cackette PH (Paul)
Subject: RE: Urgent - RE: LIT FOI release

Neil,

Please see attached lines covering Policy and FOI/Legal issues.

Additional background material including the presentation of what we have said on costs and an explanation of the variance will follow from Graham/Ross tomorrow.

Thanks

Zoe
44605

From: Mochrie Z (Zoe)
Sent: 23 June 2011 16:34
To: Trotter N (Neil); Berry MA (Michael)(Communications); Nicolson S (Stuart) Special Adviser; Bell A (Alex) Special Adviser; Pringle K (Kevin)
Cc: Cackette PH (Paul); Beattie C (Caroline); Bathgate SKR (Shona); Lavelle B (Brian); Lindsay R (Ross); Gilmour J (Jim); MacKinnon K (Karen); Davidson S (Sarah); Davidson IS (Ian) (PSDD); Cairns A (Anne); DG Governance & Communities; Moises AC (Anne); Watson DB (Dave) (ISIS)
Subject: FW: FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE [redacted]
Importance: High

Comms and Special Advisers,

With thanks to [redacted] policy colleagues for input to date, please find attached draft handling plan.

Grateful for your advice in general terms, and specifically on those points highlighted for your attention in the plan.

Please note, as indicated below, that Ministers are keen to consider the plan over the weekend, therefore **grateful for comments and contributions by 2.30pm tomorrow, Friday 24 June.**

<< File: Simon Johnson and LIT - Draft Handling Plan - 22 June 2011- with FOI LIT [redacted] input.doc >>
Many thanks

Zoe
44605

From: Davies D (Diana)
Sent: 14 June 2011 10:41:03
To: Ministerial Correspondence Unit
Cc: Brash G (Grace), Bate RAM (Robin), Aberdein G (Geoff), Bell A (Alex) Special Adviser, Dolan N (Noel), Erickson J (Jennifer), Gethins S (Stephen), Hutchison D (David), MacInnes J (John), McFarlane J (John), Nicolson S (Stuart) Special Adviser, Noon S (Stephen), Pringle K (Kevin), Kowal T (Terry), Roy G (Graeme), Hewlett D (Damon), Malarky R (Ruth)
Subject: Fast Track First Minister Correspondence - Letter from Michael McMahon MSP

Attachments: M McMahon(2).pdf

MCU

Please can the attached letter go on the system as a Fast Track for the First Minister's signature by close of play 22 June

Thanks

Diana

Diana Davies
Correspondence Secretary
Office of the First Minister
+44 131 244 2527

The First Minister's preferences can be found at:

http://intranet/InExec/AboutUs/Directorates/Ministerial-SupportGroup/Ministers/MinisterialPrivateOffices/FirstMinister/FirstMinister1/Intro

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The Scottish Parliament

Michael McMahon MSP
Uddingston & Bellshill Constituency

Mr Alex Salmond
First Minister
St. Andrew's House
Regent Road
Edinburgh
EH1

13 JUN 2011

FM OFFICE

Our Ref: 01080016

09 June 2011

Dear First Minister,

During our exchange at First Minister's Questions today (June 9) you appeared to say that information on Local Income Tax which is subject to current Court of Session proceedings has already been published in the Daily Telegraph newspaper.

As you know, the information which has been published by the Daily Telegraph was contained in another more recent document also written by Dr Andrew Goudie which revealed that your local income tax proposals were estimated to result in a revenue shortfall of around £800m.

Your comments today suggest that the document whose disclosure you have gone to the Court of Session twice to block contains the same information.

I am sure that it was not your intention to deliberately misinform Parliament on this issue so I would ask you to correct the misleading comments you made.

Given that more than £100,000 of taxpayer's money has already been spent on legal fees in an attempt to block the Information Commissioner's ruling in this case, I would ask what remaining reason you now have to spend even more taxpayer's money to prevent this information's release.

In doing so I would remind you that the Information Commissioner ruled that in this case the public interest in disclosing the information overruled any argument that advice to ministers should be exempt from the provisions of the Freedom of Information Act.

Parliamentary Advice Office, 188 Main Street, Bellshill, ML4 1AE
Telephone: 01698 304 501 Facsimile: 01698 300 223
e-mail: michael.mcmahon.msp@scottish.parliament.uk
Internet: www.scottish.parliament.uk

I look forward to your response.

Yours sincerely



MICHAEL MC MAHON MSP
SHADOW CABINET SECRETARY FOR LOCAL GOVERNMENT

Simon Johnson case

The Scottish Government is committed to Freedom of Information and its underpinning principles of openness and transparent Government.

The Scottish Information Commissioner published his Decision on an appeal by Simon Johnson on 9 February 2011.

Ministers have today appealed the Commissioner's Decision to the Court of Session as they consider that the decision is not in line with the provisions of Freedom of Information (Scotland) Act 2002 (FOISA). Pending the Court's consideration of the appeal it would be inappropriate to comment further at this time.

General background

Ministers remain keen to ensure that an appropriate balance is struck between ensuring public access to information where it is in the public interest to disclose it, and protecting the ability of Ministers and officials to develop policy without risk of premature disclosure which could be prejudicial to good government.

Scotland is leading the way in the UK as regards Freedom of Information. For example, the Scottish Government now makes its historic files available to the public after just 15 years, in contrast to the traditional '30 year rule' that applies elsewhere. We also publish a huge range of information about all aspects of our work proactively.

We handled some 1,400 FOI requests last year, the vast majority of which led to more information being made available. Additionally, there are large volumes of routine requests and correspondence that we handle on a daily basis.

However, we are not complacent and we will continue in our efforts to drive up performance and to provide more information proactively.

"I can confirm we have lodged an appeal with the court of session. It would be inappropriate to comment further at this time."

From: Caroline Beattie

[redacted]

Copy to: [redacted]
DG – Communities & Governance
[redacted]
Murray Sinclair
Paul Cackette

FREEDOM OF INFORMATION: SIMON JOHNSON
DECISION OF THE INFORMATION COMMISSIONER:POSSIBLE APPEAL

Purpose

[redacted]

Priority

2. Urgent: We are required to comply with the Decision by 28 March 2011. Any appeal against the Decision, which can only be brought on a point of law, would need to be lodged in the Court of Session by 23 March.

Background

3. Simon Johnston, Scottish Political Editor of the Daily Telegraph, requested information relating to the policy formulation of the proposed Local Income Tax on 17th February 2009. The information sought by Mr Johnston was

".....copies of revised local income tax projections based on the information and changes contained in last November's pre-Budget report. These are referred to by John Swinney in his answer to Parliamentary question S3W -18225.

I would also be grateful if you could provide any documents, including e-mails, reports and minutes of meetings, that discuss what implications these figures have....."

4. SG replied on 29 April 2009 refusing the request on the basis that the information requested fell within the exemption in section 29(1) (a) of FOISA (formulation or development of government policy). Mr Johnston requested a review of that refusal. The reviewer upheld the original decision to refuse, and advised Mr Johnston of the review decision on 24 July 2009. Mr Johnston appealed that decision to the Scottish Information Commissioner (SIC) on 27 July.

3. [redacted] supplied the SIC with a document entitled "Abolition of Council Tax and introduction of Local Income Tax: revenue projections. The SIC was not satisfied with this information and [redacted] the SIC then issued an Information Notice in respect of the appeal. The Information Notice was itself subject to an appeal under s56 of the Freedom of Information (Scotland) Act 2002. Prior to the appeal hearing being heard agreement was reached to refer the case back to SIC for a Decision. This Decision was received on 10 February and is attached at Annex 1. [redacted]

Analysis

4. An Appeal is only available on a point of law. [redacted]

[redacted]

[redacted]

Outcome

[redacted]

Caroline Beattie
Deputy Director
Commercial and Business Services Division
Scottish Government Legal Directorate
Room G-C 76 Victoria Quay Edinburgh

telephone 0131 244 0535

10 March 11

Attachments

Annex 1

Annex 2

Permanent Secretary
Sir Peter Housden KCB

T: 0131-244 4026 F: 0131-244 2312
E: perm.sec@scotland.gsi.gov.uk

The Scottish Government

Tom Greatrex MP
The Scottish Labour Party
Head Office
John Smith House
145 West Regent Street
Glasgow
G2 4RE

12 April 2011

Dear Mr Greatrex.

The Cabinet Secretary has asked me as the senior civil servant in Scotland to reply to your letter of 31 March.

You expressed concern at Scottish Ministers action on 23 March to appeal a decision of the Scottish Information Commissioner, suggesting that this constituted a breach of the Scottish Parliamentary Election Guidance.

The Guidance is explicit on this matter. The Freedom of Information (Scotland) Act 2002 remains 'in full force during the election period'. The case in question was ongoing and the action of Ministers in deciding to appeal the Commissioner's judgment did not constitute a new action of a continuing or long-term character, nor did it involve new decisions on matters of policy. A decision regarding an appeal had to be taken within a prescribed timetable.

On this basis, it is clear that Scottish Ministers acted within the Guidance, which is published at http://www.scotland.gov.uk/Resource/Doc/1124/0114298.pdf.

I hope this is of assistance, but do let me know if anything further would be helpful.

Kind good wishes

Peter Housden

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.scotland.gov.uk

The Scottish Labour Party has long opposed the Scottish Government's policy on local income tax and it is set to be a defining issue in the election campaign. There is therefore a clear concern that public resources are being used for party political purposes.

For all of the above reasons I believe the Scottish Government has breached the strict pre-election rules. I would be grateful if you could investigate this matter forthwith.

I thank you in advance for your assistance in this matter and would appreciate an early response.

Yours sincerely



Tom Greatrex MP

The Scottish Labour Party
Head Office
John Smith House, 145 West Regent Street,
Glasgow, G2 4RE
0141 572 6900 | scottishlabour.org.uk/contact

Sir Gus O'Donnell
Cabinet Secretary
HM Government
Cabinet Office
70 Whitehall
London
SW1A 2AS

31 March 2011

Dear Sir Gus

I write to you following the revelation that Scottish Ministers launched an appeal to the Court of Session to block the release of information relating to paperwork associated with local income tax (The Telegraph - Scottish edition, 31 March 2011 - attached).

I understand from media reports that Scottish Ministers are attempting to block the release of a memo written by Scottish Government officials on the implications of the local income tax plans, despite that fact that the Scottish Information Commissioner has ordered its release.

The timing of the First Minister's decision to instigate this legal action is of profound concern. As you are aware the Scottish Parliament dissolved at midnight on 22 March 2011, marking the commencement of the period formerly known as "purdah". However, I understand that the First Minister only raised the legal action on the afternoon 23 March 2011 - after the purdah period had started.

Of course I appreciate that during the Scottish Parliament election campaign Scottish Ministers retain their responsibility to govern. However, the Scottish Government guidance clearly states that only "essential business" should be carried on and Ministers should "observe discretion in initiating any new action of a continuing or long-term character." I do not believe the court action Alex Salmond instigated was essential.

The guidance also states that decisions on matters of policy, on which a new administration "might be expected to want the opportunity to take a different view from the current administration, are expected to be postponed until after the election."

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New 'junior Isa' will help parents save for children

By Simon Hall

A NEW "junior Isa" to help parents save for their children will be unveiled by the Government today.

The Junior Individual Savings Account (Jisa) will become available on May 1, allowing parents and guardians to save tax-free on behalf of the six million eligible British children.

All those aged 16 or under who do not have a Child Trust Fund will qualify for the scheme, which allows others to save up to £3,600 a year tax-free on their behalf.

The Jisa is the Coalition's alternative to the fund, which awarded children at least £250 on their birth and a further £250 on their seventh birthday. Children from low-income households received higher sums.

The Coalition scrapped the funds in its emergency Budget last summer and announced plans for Jisas.

As with the trust funds, no withdrawals will be permitted from the Jisas until maturity on the child's 18th birthday.

Parents will be able to choose whether they wish to save in a cash Jisa or in an equity Jisa – just like the adult version.

John Reeve, the chief executive of Family Investments, which provided child trust funds, said: "While the new product is on the tax system, it has more in common with its predecessor, the CTF.

"The Junior Isa allows parents, grandparents and anyone interested in a child's future to make deposits over an 18-year period.

"Parents value the protection that a product like this offers as there is no temptation to dip into these funds."

The Coalition said the Jisa would not require a complex application and it was expected that parents would be able to make monthly contributions of as little as £10 a month. The upper annual limit for deposits for existing funds was increased to £9,000, from £1,200, in line with the Jisa allowance.

Salmond fights to block release of tax plan documents

Continued from Page 1

last, in an extraordinary legal move, ministers went to the Court of Session to try to prevent Mr Dunton from seeing the documents he needed to make a ruling.

The commissioner is routinely given access to information that the Scottish Executive has decided is outside the scope of the request so he can decide whether it has been correctly withheld.

SNP ministers backed down last July, allowing Mr Dunton to consider this newspaper's appeal, and he ordered the document be released by the end of this month. His ruling said relevant information was contained in a memo submitted to Mr Swinney and a report from the Office of the Chief Economic Adviser that set out revised fiscal income tax projections.

The document "appeared to discuss the 'implications' of the Jisa and it was in the public interest it be released, he found.

But last week, only a few days before the deadline for handing over the memo, Scottish ministers lodged another appeal at the Court of Session, which will take another year to be heard. Their lawyers argued Mr Dunton had "erred in law" by ordering the information be released.

A spokesman for the commissioner confirmed he intended to contest the appeal and defend his decision.

An Executive spokesman said: "Pending the court's consideration of the appeal it would be inappropriate to comment further."

Rebel forces flee Gaddafi counter-attack in disarray

Continued from Page 1

ceasefire is still being breached and it is absolutely right for us to keep up our pressure under UN Security Council 1973. As I've told the House, the legal position is clear that the arms embargo applies to the whole territory of Libya.

"But at the same time, UNSCR 1973 allows all necessary measures to protect civilians and civilian-populated areas. Our view is that this would not necessarily rule out the provision of assistance to those protecting civilians in certain circumstances. We do not rule it out but we have not taken the decision to do so."

Mr Cameron's statement echoed comments by Mr Obama in a television interview on Tuesday night.

The US president said: "I'm not ruling it out, but I'm also not ruling it in. We're still making an assessment partly about what Gaddafi's forces are going to be doing."

Mr Obama said he had agreed to provide communications equipment, medical supplies and possibly transport to rebels, but insisted publicly that did not include military hardware.

Late night, the influential chairman of the US House of Representatives' intelligence committee said he supported supplying arms to rebels. Republican Mike Rogers said: "We need to understand more about the opposition before I would support passing out guns." Russia and other countries have strongly condemned any such provision. It is thought unlikely that the Ministry of Defence would be involved and that any decision would be taken by the Foreign Office and Downing Street. It would be highly controversial and may be blocked by MPs.

Yesterday, senior defence officials said there was "room to do" to prevent further loss of civilian lives but reiterated that no British ground troops would be used.

Military sources said air strikes on arms dumps had left the regime "incredibly stretched". A chaotic picture emerged on the ground where rebels fled towns which are being captured and surrendered on to almost daily basis.

> *This would not necessarily rule out military assistance to those protecting civilians*

The Gaddafi regime launched a counter strike, commanding rebels outside the leader's home town of Sirte.

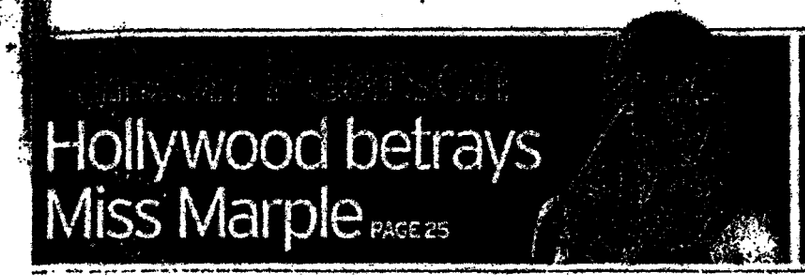
The rebels quickly retreated but were ambushed in the desert. The towns of Bin Jawad, Ras Lanuf and Bin Lanuf fell in quick succession and rebels showed no sign of trying to hold the next town, Brega, but carried on towards Ajdabiyah, where some regrouped.

Mozart, desert island king for 70 years

Mozart is the most popular choice among guests on Radio 4's Desert Island Discs. His compositions have been chosen 303 times by the 2,600 people who have appeared on the show. The host played since the programme started in 1942 is Beethoven's Ode To Joy.

The Beatles are the most popular band to have featured on the programme, with 256 song choices. John Lennon's post-Beatles songs have been chosen 34 times, Sir Paul McCartney's just six.

The details are disclosed in a new BBC website which allows listeners to travel through the 22,000 choices at interviewees. Some 300 programmes are also being made available from the archives at www.bbc.co.uk/radio4/features/desert-island-discs.



Hollywood betrays Miss Marple PAGE 25



Secret of a perfect Bloody Mary PAGE 25

The Daily Telegraph

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Salmond's fight to protect tax secrets

First Minister turns to courts to stop Telegraph disclosing documents outlining implications of plan for local levy

By Simon Johnson
Scottish Political Editor

ALEX SALMOND has twice gone to Scotland's highest court to keep secret the financial implications of his plans to bring in a local income tax, this newspaper can disclose.

Last night the Scottish National Party leader was under attack from opposition leaders after trying to use the Court of Session to prevent *The Daily Telegraph* from disclosing the details of his proposals for the tax, which he says would replace council tax.

Annabel Goldie, the Scottish Conservative leader, asked: "What has he got to hide?" and added: "You don't block good news." *The Daily Telegraph* can today report details of a two-year battle by SNP ministers to prevent the publication of an official document discussing the implications of the levy for taxpayers.

The document, a memo which was almost certainly written by Scottish Executive officials, was attached to a report from Sir George Mathewson, Mr Salmond's chief economic adviser and a former RBS chairman, and submitted in 2009 to John Swinney, the Scottish Finance Minister.

Only a month later, Mr Swinney announced he was temporarily dropping the plan, supposedly because of a lack of support among opposition MSPs, but promised to revive it for the May 2011 election.

When *The Daily Telegraph* asked, under Freedom of Information legislation, for details of the financial implications of the new tax, SNP ministers applied to the Court of Session to block the release of the papers.

However, following a lengthy legal fight the ministerial objection was dropped and Kevin Dunion, Scotland's Information Commissioner, was given access to all the papers and last month he ordered that the document from Sir George be released to this newspaper. He ruled that it would "contribute significantly to public understanding" of the policy and its "viability" to raise enough money to fund council services since the onset of the recession.

But Mr Salmond has now lodged another appeal in Scotland's highest civil court. This legal move means the document will not now be released until well after May's election.

This is politically significant as the First Minister intends to include the local income tax plan in his election manifesto, arguing that it is a fairer alternative to council tax.

Opposition parties last night questioned what Mr Salmond was trying to hide from the discourse about the tax, raising fears it would have to be set at a much higher rate than previously envisaged.

Annabel Goldie, the Scottish Tory leader, said: "You don't block good news. There is a can of writhing worms that Alex Salmond is going to extraordinary lengths to keep a lid on.

"This new appeal to the courts looks like a brazen attempt to get past polling day without having to spell the beans.

"All of which just begs the questions: What has he got to hide? Why did he drop this plan in 2009 just a few weeks after getting the advice?"

The SNP promised to replace council tax with a local income tax set nationally at 3p in the pound, a level it claimed would leave two-thirds of Scots better off. But there were doubts from the start whether this rate would be high enough to fund council services and it later emerged increasing unemployment during the recession would have left a £1bn-plus annual shortfall.

Six days after Mr Swinney announced he was dropping the plan until May 2011, this newspaper tabled a Freedom of Information request for documents about its financial basis.

After this was refused, *The Daily Telegraph* lodged an appeal with Mr Dunion.

Continued on Page 2

Scottish election news: Page 3

Libya rebels 'too weak' to finish off Gaddafi

By Thomas Harding and Robert Wheeler

THE Libyan rebels are so poorly organised that they

MATT

began openly considering the idea after Libyan troops were understood to be using "civil-

Funding blackout for theatres



Tests to check 'life chances'

By Russ Prince, Political Correspondent in Washington

because they were b

From: Zoe Mochrie
ISIS: FOI Unit
13 June 2011

Cabinet Secretary for Finance, Employment and Sustainable Growth
Cabinet Secretary for Parliamentary Business and Government Strategy

FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT – UPDATE
[redacted]

Purpose

1. To provide an update on progress, [redacted], in relation to this case.

Priority

2. Routine, though a timely decision may impact on the final costs incurred by the Scottish Ministers.

Background

3. The case relates to an request made by Simon Johnson of The Daily Telegraph for information relating to the policy formulation of the proposed Local Income Tax. A timeline of key events is attached at **Annex A**.

[redacted]

Update

5. Ministers will be aware that Simon Johnson obtained a copy of one of the documents withheld in response to his initial request. The information this document contained has been reported by the Daily Telegraph and the BBC.

[redacted]

[redacted]

13. We can anticipate that pursuing the appeal will incur costs at a slightly higher level than the appeal against the Information Notice (which was abandoned prior to the hearing as the Information Commissioner withdrew the Notice). Therefore, the likely additional costs of pursuing the appeal may be in excess of £30,000.

14. In the event that the appeal is abandoned, the Scottish Ministers will be liable for the costs of the Scottish Information Commissioner. At present we expect his costs to be broadly similar to our own (c £5,000-£10,000). However, these costs may increase significantly closer to the date of the appeal, when Counsel will be retained to work on the case.

Recommendation

15. [redacted] **it is recommended that The Scottish Ministers abandon the appeal;**

[redacted]

Zoe Mochrie
ISIS: FOI Unit
44605

13 June 2011

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Cohesion Interest	General Awareness
Minister for Parliamentary Business and Chief Whip [redacted]			X		X X

Paul Gray - DG Governance and Communities
Anne Moises – Head of ISIS
Dave Watson – ISIS Senior Leadership Team
Caroline Beattie – SGLD
Paul Cackette – SGLD
Anne Cairns – SGLD
Jim Gilmour – Local Government
Ross Lindsay – Local Government

«text»

ANNEX A

FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON AND LIT - UPDATE

[redacted]

TIMELINE OF EVENTS

1. Simon Johnson, Scottish Political Editor of the Daily Telegraph, requested information relating to the policy formulation of the proposed Local Income Tax on 17 February 2009.

2. SG replied on 29 April 2009 refusing the request. Mr Johnson requested a review of that refusal. The reviewer upheld the original decision to refuse, and advised Mr Johnston of the review decision on 24 July 2009. Mr Johnson appealed that decision to the Scottish Information Commissioner on 27 July 2009.

3. The Commissioner investigated the appeal and in due course issued an Information Notice in respect of the appeal on 12 February 2010 . The Information Notice itself was subject to an appeal under s56 of the Freedom of Information (Scotland) Act 2002. Prior to the case being heard, the Information Commissioner withdrew the Notice and the case was referred back to the Commissioner for Decision.

4. His Decision was received on 10 February 2011 and requires Ministers to release the information we had sought to withhold.

[redacted]

6. The appeal was lodged on 23 March 2011 and the Commissioner's answers received on 22 April.

7. In order to continue the appeal process, Ministers were asked on 28 April 2011 to confirm that they wished to proceed to enrol a motion and seek to have a date fixed for a hearing. Ministerial confirmation was forthcoming and the motion was lodged with the Court of Session on 6 May 2011.

ISIS: FOI Unit
13 June 2011

RESTRICTED: ADVICE TO MINISTERS

From: Zoe Mochrie
ISIS: FOI Unit
28 April 2011

Minister for Parliamentary Business
Cabinet Secretary for Finance and Sustainable Growth

FOI - APPEAL AGAINST COMMISSIONER'S DECISION - SIMON JOHNSON

Purpose

1. To provide Ministers with an update on developments with the appeal.

Priority

2. Urgent. The deadline for intimating the motion for further procedure to the Commissioner is 4 May, in order to enrol the motion with the Court on 6 May.

Background

3. Simon Johnston, Scottish Political Editor of the Daily Telegraph, requested information relating to the policy formulation of the proposed Local Income Tax on 17th February 2009.

4. SG replied on 29 April 2009 refusing the request. Mr Johnston requested a review of that refusal. The reviewer upheld the original decision to refuse, and advised Mr Johnston of the review decision on 24 July 2009. Mr Johnston appealed that decision to the Scottish Information Commissioner (SIC) on 27 July 2009.

5. The Commissioner investigated the appeal and in due course issued an Information Notice in respect of the appeal on 12 February 2010 . The Information Notice itself was subject to an appeal under s56 of the Freedom of Information (Scotland) Act 2002. Prior to the case being heard, the Information Commissioner withdrew the Notice and the case was referred back to the Commissioner for Decision.

6. His Decision was received on 10 February 2011 and requires Ministers to release the information we had sought to withhold. The full Decision is attached at Annex A for information.

[redacted]

8. The appeal was lodged on 23 March and the Commissioner's answers received on 22 April.

CONFIDENTIAL

Next Steps

[redacted]

Recommendation

[redacted]

Zoe Mochrie
ISIS: FOI Unit
44605

28 April 2011

Copy list:	For Action	For Comments	For Information: Portfolio Interest	For Information: Coalition Interest	For Information: General Awareness
«Cabinet Secretaries and Ministers Only» Click here to read instructions for **copy lists** (Note 9)	«text»	«text»	«text»	«text»	«text»

«Officials Only»	«text»

Freedom of Information case: FOI/09/00512
Timeline of Simon Johnson Case

17 Feb 2009 Simon Johnson, Scottish Political Editor of the Daily Telegraph, requests information relating to the policy formulation of the proposed Local Income Tax on 17th February 2009. The information sought by Mr Johnson was

"*.....copies of revised local income tax projections based on the information and changes contained in last November's pre-Budget report. These are referred to by John Swinney in his answer to Parliamentary question S3W-18225.*

I would also be grateful if you could provide any documents, including e-mails, reports and minutes of meetings, that discuss what implications these figures have....."

29 April 2009 SG replied refusing the request on the basis that the information requested fell within the exemption in section 29(1) (a) of FOISA (formulation or development of government policy). Mr Johnson requested a review of that refusal.

24 July 2009 SG reviewer upheld the original decision to refuse, and advised Mr Johnson of that outcome.

27 July 2007 Mr Johnston appealed that decision to the Scottish Information Commissioner (SIC).

17 Sept 2009 Submissions to the SIC in respect of the appeal completed. SIC supplied with a document entitled "Abolition of Council Tax and introduction of Local Income Tax: revenue projections", and two submissions detailing our arguments for the application of the section 29(1)(a) exemption, and detailing the searches that have been carried out for any information within the scope of request. We have explained very fully the context within which the policy was being developed and the importance of being able to develop this policy within a protected space.

3 December 2009 The SIC was not satisfied with this information and asked for a meeting with the relevant officials. During the course of the meeting he was advised that officials had decided certain documents were out with the scope of the request and these had not been supplied to SIC. He asked that copies of these be provided, and these were provided at this time and subsequently after the information was withdrawn. It also became clear that officials had asked not Mr Swinney's office or the relevant special adviser to check for any information they might hold.

12 Feb 2010 The SIC issued an Information Notice in respect of the appeal, with a deadline of 8 March for the provision of the information requested. This was later revised to 31 March.

9 March 2010 Scottish Ministers lodge appeal under s56(c) of FOISA to review the Information Notice.

13 July Court of Session Appeal due to be heard. SIC agrees to withdraw Information Notice

20 July 2010 SIC writes to the Permanent Secretary informing him of the cancellation of the Information Notice.

9 February 2011 SIC issues Decision Notice requiring disclosure of 2 documents (one partially redacted) to Mr Johnson.

23 March 2011 Scottish Ministers lodge appeal under s56 (b) of FOISA against the SIC's Decision Notice.

Cabinet Secretary For Finance, Employment and Sustainable Growth
Cabinet Secretary for Parliamentary Business and Government Strategy

FOI APPEAL TO THE COURT OF SESSION – SIMON JOHNSON – HANDLING PLAN

Purpose

1. To provide a draft handling plan for the abandonment of this appeal.

Priority

2. Routine, though Cabinet Secretaries will wish to consider the timing implications outlined at point 3 of the handling plan.

Conclusion

3. The Cabinet Secretaries are invited to:
 - note the draft handling plan attached at Annex A;
 - Indicate whether they are content with the proposed approach; and
 - indicate their preferred option with regard to timing.

Zoe Mochrie
ISIS: FOI Unit
44605

24 June 2011

Copy List:	For Action	For Comments	For Information: Political Interest	For Information: Constit Interest	For Information: General Awareness
Minister for Parliamentary Business and Chief Whip [redacted]			x		x

Permanent Secretary
Paul Gray – DG Governance and Communities
Anne Moises – Head of ISIS
Dave Watson – ISIS Senior Leadership
Sarah Davidson
Ian Davidson
Jim Gilmour
Ross Lindsay
Paul Cackette - SGLD
Caroline Beattie – SGLD
Shona Bathgate – SGLD
Brian Lavelle – SGLD
Anne Cairns – SGLD
Neil Trotter - Communications
Michael Berry - Communications
Karen MacKinnon - Communications
Kevin Pringle – Special Adviser
Stuart Nicolson – Special Adviser
Alex Bell – Special Adviser

ANNEX B

FOI APPEAL TO THE COURT OF SESSION - SIMON JOHNSON - HANDLING PLAN

TIMELINE OF EVENTS

17 Feb 2009 Simon Johnson requested information relating to the policy formulation of the proposed Local Income Tax.

29 Apr 2009 SG replied refusing the request. Mr Johnson requested a review of that refusal.

24 Jul 2009 The reviewer upheld the original decision to refuse and advised Mr Johnson of decision.

27 Jul 2009 Mr Johnson appealed that decision to the Scottish Information Commissioner.

12 Feb 2010 The Commissioner investigated the appeal and in due course issued an Information Notice in respect of the appeal. The Information Notice itself was subject to an appeal under s56 of the Freedom of Information (Scotland) Act 2002. Prior to the case being heard, the Information Commissioner withdrew the Notice and the case was referred back to the Commissioner for Decision.

10 Feb 2011 The Commissioner's Decision was received (dated 9 February), requiring Ministers to release the information we had sought to withhold.

[redacted]

23 Mar 2011 The appeal was lodged.

8 April 2011 The information at the heart of the appeal, having been leaked to the Daily Telegraph, appears in that newspaper and on the BBC website.

22 Apr 2011 Commissioner's answers received.

28 Apr 2011 In order to continue the appeal process, Ministers were asked to confirm that they wished to proceed to enrol a motion and seek to have a date fixed for a hearing.

4/6 May 2011 Ministerial confirmation was forthcoming and the motion was intimated and lodged with the Court of Session.

[redacted]

9 Jun 2011 At FMQs, when asked about the expenditure being incurred in opposing disclosure, the First Minister responded: "I understand that the information has already been published in *The Daily Telegraph*."

[redacted]

Scottish Government Legal Directorate
Group 1: Healthier, Safer and Stronger
Litigation Division

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E: Anne.Cairns@scotland.gsi.gov.uk

The Scottish Government

FAO Fiona Killen
Anderson Strathern
Solicitors
DX ED 3
EDINBURGH 1

Your ref: FMK/SIC0002.0031/HLA
Our ref: LIT/6628/AC

14 July 2011

Dear Sirs,

APPEAL BY THE SCOTTISH MINISTERS AGAINST A DECISION OF THE SCOTTISH INFORMATION COMMISSIONER
COURT REFERENCE: XA32/11

I refer to the above matter and confirm we intend to enrol the undernoted motion on behalf of the Scottish Ministers on Monday 18 July 2011. I presume that you will have no opposition to the motion, but perhaps you can confirm your position. As the Court will be in vacation by next week it may be some time before the motion is dealt with, but I look forward to receiving your account of expenses once we have a final interlocutor.

Yours sincerely

Anne Cairns

UNDERNOTE

"On behalf of the appellants to allow the appellants to abandon the appeal, and thereafter to dismiss the appeal and find the appellants liable to the respondent in the expenses of the appeal."